

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

DA No.2923/2001

Date of decision: 29.01.2002

Mrs. Abha Bhardwaj & 8 Others .. Applicants

(By Advocate: Shri B.B. Raval)

versus

Commissioner, KVS .. Respondent

(By Advocate: Shri S. Rajappa)

CORAM:

The Hon'ble Shri M.P. Singh, Member(A),

1. To be referred to the reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal?

m/s
(M.P. Singh)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2923/2001

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New Delhi, this 29th day of January, 2002

Hon'ble Shri M.P. Singh, Member(A)

1. Mrs. Abha Bhardwaj
A-2/25, Shri Agrasen Apartments
Plot No.10, Sector 7, Dwarka
New Delhi
2. Smt. Madhu Sharma
M-38, New Mahavir Nagar
New Delhi
3. Smt. Kanta Vohra
109/b, Ramesh Nagar, New Delhi
4. Smt. Rekha Pathak
44, Laxmi Apartments
Sector 9, Rohini, Delhi
5. Smt. Rajni Sati
B-549, Sector 9
6. Smt. Renu Saxena
C-77, East of Kailash
New Delhi
7. Ms. Tajinder Kaur
DA/99/C, Hari Nagar
New Delhi
8. Smt. Usha Rani Sharma
28, Plot B-5, Deluxe Apartments
Vasundhara Enclave, Delhi
9. Bharat Bhushan
99-B, Ramesh Nagar, Delhi

Applicants

(By Shri B.B. Raval, Advocate)

versus

1. Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110 016

Respondent

(By Shri S.Rajappa, Advocate)

ORDER

Heard the learned counsel for the parties at length. Applicants, 9 in number, working as Yoga Teachers in various branches of Kendriya Vidyalayas (KV, for short) in Delhi have challenged the order dated 20.9.2001 by which they stand transferred to KVs of different parts of the country as mentioned in that order. This order has been issued in compliance with the order dated 25.7.2001 passed by Delhi High Court in CWS No.7351, 7816/2000 and 4092/2001 inter alia stating as under:

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The Board of Governors, KVS in its meeting dated 7.9.2001 considered the Baldev Mahajan Committee report on freezing of sections as well as the statements made by the Minister of HRD in the Parliament. The Board of Governors after due consideration rejected the recommendations of the Baldev Mahajan Committee. Accordingly, in the light of Hon'ble Court order the temporary attachment of the following Yoga teachers to Kendriya Vidyalayas of Delhi Region as shown in column 5 below is hereby withdrawn. They are directed to get themselves relieved and report to the Kendriya Vidyalaya as at Column No.4 i.e. to the KV where they were initially transferred vide this office transfer order dated 9.8.2000".

2. When the case came up for hearing on 23.10.2001, an interim order was passed to the effect that "Till then the learned counsel for the respondents ensures that the impugned transfer order shall not be given effect". The said order continued from time to time and the case was finally heard on 11.1.2002 when orders were reserved for judgement.

3. Precisely speaking, the original order dated 9.8.2000, involving transfer of as many as 27 Yoga Teachers, has been under challenge by some of the incumbents mentioned in that order before this Tribunal as well as before the Delhi High Court which have already been decided as per details given in the following paras in chronological order.

4. One of the Yoga Teachers namely Shri Vaidya Nath Jha (S.No.13 in the present impugned order) filed OA No.1943/2000, challenging the order dated 9.8.2000, which was dismissed by a DB of this Tribunal on

1.12.2000 being devoid of merit. Another OA No.1584/2000 filed by three more Yoga Teachers namely Dr. V.Jain, Smt. Poonam Sehgal and Vipin Anand (Sl.No.10-12 in the present impugned order), challenging the same order, was allowed by a DB of this Tribunal on 15.5.2001, by quashing the order dated 9.8.2000 and granting liberty to the respondents to effect transfer orders of Yoga Teachers only after a regular decision of the Board of Governors (BOG, for short) is taken on the report of the Baldev Mahajan Committee (BMC, for short) to be set up to study the workload in KVs etc. Yet another OA No.1728/2000 filed by Arun Kumar Vashisth (Sl.No.14 in the impugned order), challenging the same order dated 9.8.2000, was dismissed by a SB of this Tribunal vide order dated 29.5.2001, being devoid of merit.

5. Thereafter, the applicants in the aforesaid OAs as also the Respondent separately filed CWS 7351 & 7816/2000 and 4092/2001 respectively before the Delhi High Court, which were disposed of by a common order dated 25.7.2001 by the High Court with the following observations:

"The Board of Governors of Kendriya Vidyalaya Sangathan is directed to reconsider the Baldev Mahajan Committee report regarding freezing of sections of the Sangathan in the light of Parliamentary proceedings and HRD Minister's statement on the subject matter and to pass appropriate order within four weeks thereon. In the event Committee's report is accepted, Yoga Teachers shall be retained within Delhi region and posted suitably against available vacancies. These teachers shall meanwhile remain suitably attached to await their posting orders depending upon the decision to be taken by the Board".



6. Pursuant to the above, respondents passed the impugned order dated 20.9.2001 for the transfer of 14 persons including the applicants herein.

7. Not content with the decisions arrived at by this Tribunal in the earlier OAs filed by them, three of the Yoga Teachers namely Dr. Vivekanandini Jain, Vipin Kumar Anand and Smt. Poona Sehgal, whose earlier OA No.1584/2000 was allowed by order dated 15.5.2001, and Shri Arun Kumar Vashisht, whose earlier OA No.1728/2000 was dismissed by order dated 29.5.2001 (as already mentioned in para 4 above) again approached this Tribunal through OA Nos.2849/2001 and 2853/2001 respectively, inter alia challenging the impugned transfer order dated 20.9.2001 which were dismissed by a common order dated 29.11.2001, after discussing in detail the various averments made by both parties and for the reasons mentioned therein.

8. A careful perusal of the judgements cited supra (in paras 4 and 7 above) reveals that the various averments made and the grounds taken by the applicants in the present OA are similar to those in the aforementioned OAs which have been discussed at length answering in clear terms to all the pleas taken by the applicants therein. I am of the considered view that the present OA is covered in all fours by the decisions arrived at the aforementioned OAs. I therefore do not deem it necessary to again discuss the averments made by the

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learned counsel for the applicants in the present OA and take a different view contrary to the ones arrived at in the aforementioned OAs. On this ground alone, the present OA is liable to be dismissed being devoid of merit.

9. I am aware of the legal position that court/Tribunal cannot interfere with the transfer orders issued in administrative exigencies, unless there is established mala fide or the same has been made in violation of the statutory rules. Though no mala fide as such has been alleged by the learned counsel for the applicants during the course of the arguments, he took the main plea that the impugned order dated 20.9.2001 has been passed in contravention of the rules and transfer guidelines and also in pursuance of a so-called meeting of the BOG, which was not authorised to reconsider because the matter was already considered by the BOG in their 68th meeting which was confirmed in the 69th meetings held on 17.7.2000 and 1.3.2001 respectively.

10. As regards the contention of the learned counsel for the applicants that the impugned transfer order has been issued in contravention of rules and transfer guidelines, the same has been discussed and answered in clear terms in Tribunal's judgement dated 29.11.2001 in OA Nos.2849 & 2853/2001 (supra), which need no more elaboration. In fact, the respondents are within their rights to transfer the Yoga Teachers to the places where

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the vacancies are available, particularly when the applicants have been found to be in excess of the sanctioned strength and were to be redeployed against vacancies available. Therefore, the aforesaid contention of the learned counsel of the applicants to the contrary has no force and is therefore rejected.

11. Besides, OA Nos.2849/2001 and 2853/2001 challenging the order dated 20.9.2001 were dismissed by a common order dated 29.11.2001 only after the 70th meeting of BOG held on 7.9.2001, in pursuance to the observations made by the Delhi High Court extracted above, by which the recommendations made by BMC were rejected by BOG. In view of this position, the plea taken by the learned counsel for the applicants to the above effect has no force and is liable to be rejected.

12. For the detailed reasons discussed above, I find no merit in the present OA and the same is dismissed accordingly, leaving the parties to bear their own costs. The interim order passed on 23.10.2001 stands vacated.


(M.P. Singh)
Member(A)

/gtv/