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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 755/2001

NEW DELHI THIS 4TH DAY OF JULY 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. S P Goswami, PGT (Chemistry)
Kendriya Vidyalaya,
Pocket B, House No. 46, LIG Flats,
GTB Enclave, New Delhi
2. Sikukhbir Singh, PET,
Kendriya Vidyalaya,
Vill & PO Nangal Devvat, New Delhi
3. D K Chauhan, PET, Kendriya Vidyalaya,
1263/5, Patel Nagar, Gurgaon.

.....Applicant
(By Shri Anil Srivastava Advocate)

VERSUS

The Commissioner,
Kendriya Vidyalaya Sangathan
18 Institutional Area,
Shaheed Jeet Singh Marg, New Delhi

.....Respondents

(By Shri S. Rajappa Advocate)

O R D E R

Challenge in this OA is directed against order 24.11.2000 passed by the respondents, transferring the applicants from Kendriya Vidyalaya, Air Force Station Gurgaon to far off places.

2. Heard S/Shri Anil Srivastava and S. Rajappa, learned counsel for the applicants and the respondents respectively.

3. All the three applicants who are teachers in Kendriya Vidyalaya are also active functionaries and office bearers of the Rashtriya Kendriya Vidyalaya Adhyapak Sangh.

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(RKVAS). Annoyed and upset by the success of the All

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rally of the Kendriya Vidyalaya teachers organised on 18.8.99 in which the applicants actively participated, the respondents harassing them by making improper enquiries against them. Respondents were also unhappy with the applicants for their attempting to expose the illegal activities of the Principal of the School, they were working. These have led to the impugned transfer order dated 24.11.2000. On the applicants' filing OA No. 2665/2000, respondents were directed on 20.12.2000 to pass, a detailed and speaking order on the representation by the applicants. Respondents thereafter decided the representations by rejecting them on 27.2.2001 and 13.3.2000. Hence this OA.

4. Grounds raised in the OA are that:

- i) the impugned order has been issued in colourable exercise of power;
- ii) it was against the agreement with JCM on 2.12.99 that transfer on administrative grounds from a School shall be restricted to two;
- iii) it was of the order dated 15.1.99 that office bearers of recognised association should not be victimised for legal union activities;

iv) it was against the order of 5.4.2000 that transfer of office bearers shall be forwarded by the Principal; Chairman Vidyalaya Managing Committee and the Asstt. Commissione;

v) it was malafide, against the Association activities and punitive in nature;

vi) the applicants had blemishless record of service and

vii) being office bearers they could not have been posted outside.

In view of the above the transfer order was bad, improper and deserved to be set aside, according to the applicants, a view forcefully reiterated by their counsel Sh. Anil Shrivastava.

5. In their detailed reply, filed through and stressed during the personnel submissions by Sh. S. Rajjappa learned counsel Kendriya Vidyalaya Sangathan(KVS) respondents point out that the applicants have not made out any case for interference with the transfer order. KVS being an organisation having Vidyalayas under its control all over India, the teachers attached to the Vidyalayas have an All India Transferability. This is an accepted condition of service. The respondents have only exercised their powers in pursuance of the above condition. Further it is the responsibility of the administration to ensure that absolute discipline is maintained in the School along with Academic excellence and therefore, the

administration/management have powers to make use of their resources to the best advantage of the organisation and its avowed objectives. The orders disposing of the representations given by the applicants make it clear that the administration/management has only acted in public interest and to maintain discipline in the Vidyalaya. Challenges made in similar cases of transfer by Ashok Kumar in OA No. 1601/99 and Geeta Khanna in OA No. 1878/2000 have been repelled by the Tribunal on 20.7.1999 and 6.9.2001 respectively. Further the applicants had been transferred out on account of the complaints which had been received against them and brought to the notice of the Commissioner of the KVS specifically relating to their activities of indiscipline. Impugned orders had therefore been issued in the interest of the organisation as well as that of the students community. In fact in addition to the three applicants another teacher also had been transferred on the same grounds. The general "guideline that" number of transfers on administrative grounds from a Vidyalaya should generally be restricted to " does not mean that this direction is absolute and to be followed in all cases even if there is justifiable grounds , as the guidelines speak immediately thereafter that "recommendation for transfer exceeding too will required adequate justification". Circumstances of the case are such that there existed grounds for transferring the applicants on account of their acting against the discipline of the organisation . The action of the administration/management cannot therefore be assailed. The action having been taken in the interest of the Sanghthan as a whole and the students community in particular would not warrant any interference, according to Shri Rajappa.

6. During the oral submissions both the counsel forcefully pressed their arguments, in furtherance of their written pleas. While according to Sh. Shrivastava the transfer orders had been effected by the administration/management to wreak vengeance on the applicants for their Association/Union activities , Shri Rajappa countered the same and states that the interest of the administration, the discipline in the school premises and the welfare of the students community had prompted the respondents to issue the orders. He also states that the applicants have needlessly dragged in the name of the Principal of the School in this controversy.

7. I have carefully considered the matter. As has been laid down by various decisions , including those of the Hon'ble Apex Court , transfer is a matter which falls within the exclusive domain of the administration/management and the Tribunal would in normal circumstances steer clear of transfers issued by the Government unless the same is/are against the published and accepted guidelines and are malafide. In this OA the applicants state~~s~~ that they have been transferred out from KV ,AFS Gurgaon as their legal and proper activities in furtherance of the principle of collective bargaining → have upset the administration/management, who have resorted to punitive transfers. The same however is not borne out by the facts on the record. The KVS Management on receipt of complaints about the activities of the applicants, which they felt to be against the interest of the organisation and the Students' community, decided to shift them from their place of posting. This power has been exercised by them correctly and legally and it definitely is for the competent authority to decide where to place an individual in the organisation,

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so that best is achieved and the worst is avoided. That is all what respondents have done in the instant case. The applicants seem to rely on general instructions about keeping the office bearers of the recognised organisation near the Headquarters office, and/ or restricting the number of transfers on administrative grounds from any Vidyalaya at one time too . They appear to have conveniently forgotten that being active functionaries and/or office bearers of the organisation does not give them immunity from the conditions of the service or would permit them to act against the interest of the organisation under the garb of Association/Union activities. They cannot expect the Tribunal to come to their rescue even when they are not in the right.

8. In the above view of the matter I am fully convinced that the applicants have made out no case whatsoever for my interference. The O.A. , thus being devoid of any merit fails and is accordingly dismissed. No costs.

Patwal/

(Govindan S. Tampi)
Member (A)

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