

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 2565/99

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New Delhi this the 21st day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Mrs. Kamlesh Singh  
W/o Dr. H.G. Singh,  
R/o 50-A, Patparganj Village,  
Delhi-110091.

(By Advocate: Dr. Sumant Bhardwaj) ..Applicant

Versus

Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110016  
Through its Deputy Commissioner  
(ACAD) Sri S.B. Chaturvedi.

(By Advocate: Shri S. Rajappa) ...Respondent

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Member (J)

The applicant who was initially appointed to the post of Primary Teacher in Kendriya Vidyalaya(K.V) at Bulandshahar on 28.9.1987 is aggrieved by the transfer order issued by the respondents dated 22.11.1999. By this order, the applicant has been transferred from K.V. Bulandshahr to K.V. Leimakhong.

2. I have heard both the learned counsel for the parties and perused the pleadings.

3. Dr. Sumant Bhardwaj, learned counsel for the applicant has submitted that in terms of the appointment order dated 28.9.1987 appointing the applicant as a Primary Teacher in K.V. Bulandshahar, she was to be borne on the cadre of this Region i.e. Delhi Region.

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He has submitted that as per the provisions of para-6 of offer of appointment, it has been clearly stated that applicant would not be allowed to change the Region subsequently. As mentioned above, she was posted initially at K.V. Bulandshahar which comes within the Delhi Region. His contention is, therefore, that she cannot be transferred beyond the region to which she belongs. <sup>also</sup> He has relied on Clause-5 (i) of the Transfer Guidelines issued by the respondents, (pages 17-23) of the rejoinder. Both the learned counsel have submitted that this is the Transfer Guidelines which are applicable to the facts of the present case. Clause-5 (i) of the Guidelines provides, *inter alia*, that a teacher is liable to be transferred on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of the Kendriya Vidyalaya. According to the learned counsel for the applicant, the recommendation of the Chairman of the Management Committee has not been obtained in the present case. He also relies on Clause-10(2) of the Guidelines which reads as follows:-

"While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places/stations, to the extent possible and administratively desirable".

4. It is noticed that immediately after the applicant received the impugned transfer order dated 22.11.99, this application has been filed in the Tribunal on 1.12.99 i.e. within 10 days. At that time, the applicant has also not made any representation to the respondents because of the school vacations at that time. Shri S. Rajappa, learned counsel, has submitted that the applicant has not only received the impugned transfer order, according to the records, on 27.11.99 on

which date she stood relieved, but has not also made any representation to the respondents to consider her case in terms of the aforesaid paragraphs of the Guidelines relied upon by the learned counsel for the applicant.

5. It is relevant to note that by Tribunal's order dated 20.12.99, noting the aforesaid submissions of Dr. Sumant Bhardwaj, learned counsel, the Tribunal had directed the respondents to maintain the status-quo for a period of two weeks, which order has been continued till date. However, in the above facts and circumstances of the case, as on the date of the Tribunal's order dated 20.12.99, the applicant already stood relieved.

6. In the reply filed by the respondents, they have submitted that the applicant's transfer is legal and valid and it has been done in public interest and administrative exigencies. According to them, as they required persons with experience in Primary Schools for teaching students in the North-Eastern Region, hence the applicant had been transferred as she qualifies on this account. Learned counsel for the respondents has, therefore, submitted that the impugned transfer order, transferring the applicant from K.V. Bulandshahar to K.V. Leimakhong, Manipur has been done in accordance with the transfer policy guidelines and in administrative exigencies. He has submitted that it is, therefore, legal and valid.

7. Taking into account the facts and circumstances of the case, the applicant ought to have made a representation to the respondents taking whatever

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grounds she thought fit before the authorities to re-consider her posting to K.V.Leimakhong, which has not done. The contention of the learned counsel for the applicant that she did not do it because of School vacation is not a sufficient ground for not having exhausted the available remedies. The provisions of the Guidelines issued by the respondents on transfer matters, especially Clause-10(2) relied upon by her should have also been brought to the attention of the competent authorities in a representation in order to enable them to re-consider the matter of her transfer. Learned counsel for the applicant also prays that the applicant may be allowed to make such a submission to the competent authorities for their due consideration. He has also submitted that during the intervening period the applicant has been on leave, which fact is disputed by the learned counsel for the respondents on the ground that she already stood relieved on 27.11.99.

8. In the facts and circumstances of the case, the O.A. is disposed of with a direction to the applicant that she may submit a self-contained representation within 10 days from today to the competent authority/respondents. The competent authority shall take a decision in the matter thereafter in accordance with the Rules and Instructions, as expeditiously as possible, and in any case within three weeks. They shall do so by a reasoned and speaking order with intimation to the applicant. No order as to costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)