

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(8)

C.A./T.A. No. 1526 /19 Decided on: 20.3.97

Mrs. Subash Chawla

..... APPLICANT(S)

(By Shri S.K.Shukla Advocate)

VERSUS

NCT of Delhi

..... RESPONDENTS

(By Shri Vijay Pandita Advocate)

ORAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

S.R. ADIGE
(S.R. ADIGE)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No.1526 of 1996

(9)

New Delhi, dated the 20 March, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Mrs. Subash Chawla,
W/o Shri Sudhir Chawla,
C-6/18, Model Town,
Delhi-110009.

... APPLICANT

By Advocate: Shri S.K. Shukla

VERSUS

1. NCT of Delhi through
the Chief Secretary,
5, Sham Nath Marg,
Delhi-110054.
2. Director of Education,
NCT of Delhi,
Old Secretariat,
Delhi-110054.
3. Dr. (Mrs.) Satbir Silas,
Addl. Director of Education (Admn.)
Old Secretariat,
Delhi-110054.
4. Dy. Director of Education (Admn.)
Directorate of Education,
Old Secretariat,
Delhi-110054.
5. Ms. Shalini,
Lecturer (Biology),
R/o K-19, Model Town,
Delhi-110009.

.. RESPONDENTS

By Advocate: Shri Vijay Pandita for R-1 to 4
Shri K.D. Sharma for R-5

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant seeks quashing of the
impugned orders dated 31.5.96 (Ann. A-1)
canceling her transfer from Govt. Girls Sr.
Secondary School, B Block, Shalimar Bagh,
Delhi to Govt. Girls Sr. Secondary School
No.1, Model Town, Delhi.

2. Her case is that upon promotion as PGT in Biology, she was posted at GGSS School, Timarpur, Delhi. In February, 1991 while working there she received orders dated 23.11.94 directing her to teach three days per week at Timarpur and three days per week at Shalimar Bagh. When she objected orally she was told that this arrangement had been made pursuant to her application for transfer to Model Town against a vacancy which was to arise on 1.11.95, but alleges that the real motive was to oblige Respondent No.5 who remained at Kanjhawala School only about two months, and then was brought to Timarpur School an ^{urban} ~~rural~~ school, for three days in a week by shifting applicant to Shalimar Bagh vide orders dated 23.11.94, and then shifting applicant to Shalimar Bagh permanently vide orders dated 19.4.95. Applicant further contends that even when she was posted at Timarpur she had prayed for a transfer to Model Town against a vacancy which would arise on 1.11.95 but was shocked to learn that by order dated 11.10.95 Respondent No.5 was transferred to Model Town. She states that she represented to the Education Minister, Delhi as a result of which orders dated 12.3.96 (Ann. A-2) issued transferring her to Model Town and Respondent No.5 to Ashok Vihar. She states that she joined at Model Town School on 3.4.96 after which the schools closed for summer vacation, but

during those vacations, respondents illegally and arbitrarily issued the impugned order cancelling her transfer to Model Town by impugned order dated 31.5.96.

3. Official Respondents in their reply have raised preliminary objection that the Tribunal is not an appellate authority to sit in judgment over a transfer order, which is an administrative order made in the public interest as a matter of policy. That apart, official respondents state that as per transfer policy, teachers on promotion are generally posted in rural areas whereas applicant on promotion was posted at Timarpur which was quite near her residence. Later by internal arrangement she was asked to work three days in Timarpur and three days in Shalimar Bagh in public interest due to non-availability of teachers in Shalimar Bagh, and this arrangement did not adversely affect her as both Timarpur and Shalimar Bagh are 4/5 Kms. from her residence. Still later this internal arrangement was terminated and applicant was posted full time at Shalimar Bagh. Subsequently to accommodate her, Respondent No.5 was transferred from Model Town to Ashok Vihar and one Mrs. Kalpana Rawal was transferred to Shalimar Bagh vide orders dated 12.3.96 although neither Respondent No.5 nor Kalpana Rawal had asked for a transfer. It is also stated that the PTA, Model Town School had protested against Respondent No.5's transfer from Model Town, and as applicant's transfer to Model Town was

not found administratively sound, it was cancelled vide impugned order dated 31.5.96.

4. Respondent No.5 has also filed reply and applicant her rejoinder.

5. I have heard both sides and perused the materials on record.

6. Admittedly applicant is liable to be posted/transferred to any place within NCT of Delhi and she cannot legally claim transfer/posting to any school as a matter of right. From her representation dated 28.3.95 and 25.4.95 (Ann. A-6 Colly) it is clear that the only reason why she is seeking transfer to Model Town is because it is very close to her house where her daughter resides. The Principal, Shalimar Bagh School in her letter dated 19.8.96 (Ann. R-1) has stated that applicant herself managed her transfer to Model Town as her transfer application was not routed through the school. Applicant in para 3 of her rejoinder has specifically referred to this letter dated 19.8.96 but she has not denied or challenged the above averment. In U.O.I. Vs. H.N. Kirtania JT 1989 SC 131 the Hon'ble Supreme Court have held that transfer in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer the transfer order illegal on grounds of violation of statutory rules or on grounds of malafides. The same dictum would

(12)

apply in the case of cancellation of transfer orders as in the present case. Applicant's counsel has not shown me any violation of statutory rules or any cogent evidence to support the content that the cancellation of the transfer was actuated by malafides, when the applicant herself has not challenged the assertion that she managed her transfer to Model Town. Official Respondents have stated on affidavit that applicant's transfer to Model Town was cancelled in public interest and *prima facie* have no reason to doubt this statement.

7. Applicant hasn't cited a number of rulings but in the light of the circumstances noted above the impugned orders warrant no interference. The O.A. fails and is dismissed. No costs.

Arfahq.

(S.R. ADIGE)
Member (A)

/GK/