

Central Administrative Tribunal
Principal Bench: New Delhi

OA 599/97

New Delhi this the 14th day of May 1997.

Hon'ble Mr N. Sahu, Member (A)

Shri R.K. Shastri
S/o Sh. C.P. Pandey
R/o 15/267, Lodhi Colony
New Delhi.

...Applicant

(By advocate: Shri S.K. Bisaria)

Versus

1. Lt Governor through
Chief Secretary
Govt. of NCT of Delhi
Sham Nath Marg
Delhi
2. Director of Education
Govt. of NCT of Delhi
Old Sectt.
Delhi.
3. Dy. Director (South)
Defence Colony
New Delhi.

...Respondents.

(By advocate: Shri Ajesh Luthra, proxy for Mrs Jyotsana Kaushik)

O R D E R (oral)

Hon'ble Mr N. Sahu, Member (A)

Heard Shri S.K. Bisaria, learned counsel for the applicant and Shri Ajesh Luthra, proxy counsel for Mrs Jyotsana Kaushik, counsel for the respondents.

Heard
This petition is directed against the order of the Deputy Director of Education (Annexure A-1) dated 14.3.97 shifting the applicant as Vice Principal to Govt. Boys Senior Secondary School and also stating that the applicant would draw his salary from the existing

institution. The learned counsel besides other points stated that the impugned transfer order lacks jurisdiction and is bad in law. For this purpose, he has brought to my notice an OM dated 12.10.94 under which the authority for approving transfers in respect of Class-I and Class-II staff particularly Vice Principal is the Director of Education. Item No.5 page 3 of the note also clearly states that the transfer of Principals and Vice Principals would be issued only with the prior approval of the Minister of Education. As the transfer order is issued only by a Deputy Director and not by Director, the said order is ab-initio void. Learned counsel for the respondents has drawn my attention to the salient points made in the counter affidavit filed by the respondents. It is mainly stated that the applicant has been deputed to Govt. Boys Senior Secondary School, East of Kailash, New Delhi as an internal arrangement. He will continue to draw his salary from the existing school - Govt. Comp. (Model) Co-Educational Sr. Secondary School, Jonapur, New Delhi. He will also get his retirement benefits from his parent school. Several aspects were highlighted, namely that the applicant did not facilitate the inspection of the school on many occasions and disobeyed the orders of the District Authorities. It is also mentioned that there was no malafide intention in shifting the applicant.

3. I have carefully considered the submissions of the rival counsel. Annexure-I is definitely an order shifting the applicant from Senior Secondary School,

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Jonaopur to Govt. Boys Sr. Sec. School, East of Kailash. He has been asked to hand over the school charge. He has been asked to function in a new office to discharge a new responsibility. He has been asked to hand over charge to Shri Daya Ram with immediate effect. Drawing of salary is not of much consequence. Whatever may be the different nuances in the order yet in spirit and substance, it is a transfer order. The guidelines pointed out by the learned counsel for the applicant dated 12.10.94 have also been shown to the learned proxy counsel for the respondents. Admittedly, the approval of the Director of Education has not been obtained, much less the approval of the Minister. That apart, from the pleadings in the Bar, I understand that the applicant so far has not relinquished his charge from Jonapur School even till date. It is admitted that the applicant is going to superannuate on 31st May 1997. No purpose will be served by transferring him a few weeks before his retirement. As the impugned order has been passed without jurisdiction and also considering the case that the applicant has only two more weeks to go before his superannuation, I have no other alternative except to allow the OA and direct the respondents to permit the applicant to continue as Vice Principal in the Jonapur School till his superannuation. The OA is allowed. No costs.

N. Sahu
14/5/97
(N. Sahu)

Member (A)