

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

13-

OA 1349/2000

New Delhi, this the 23rd day of March, 2001

Hon'ble Shri Govindan S. Tampi, Administrative Member

B.R.Singh  
S/o Shri Atiraj Singh  
R/o-16/817, Randhawa House,  
Dubwali road, Sirsa.  
Working as T.G.T. (Maths) at K.V.S. No.1  
A.F. Station, Sirsa.

...Applicants.

(By Advocate Shri A.K.Tripathi)

V E R S U S

1. Kendriya Vidyalaya Sangathan  
Through its Commissioner, KVS HQs  
18, Institutional Area,  
Shaheed Jeet Singh Marg, New Delhi.

2. The Deputy Commissioner (ACAD)  
Kendriya Vidyalaya Sangathan  
18, Institutional Area,  
Shaheed Jeet Singh Marg, New Delhi.

...Respondents

(By Advocate : Shri S.Rajappa)

O R D E R (ORAL)

Hon'ble Shri Govindan S. Tampi, Administrative Member

Heard learned counsel for the applicant and  
the respondents.

2. The applicant a Trained Graduate Teacher  
(Mathematics) was working at Kendriya Vidyalaya  
Sangathan, RRC, Fatehgarh, since 10-1-1990 and on  
30-10-1999 in terms of the order declaring TGTs in the  
various schools under the KVS surplus followed by  
transfer and adjustment, he was posted to Kendriya  
Vidyalaya, New Majiri, Maharashtra, as places of his  
choice like Lucknow, Agra, Mathura, Bareilly and  
Kanpur had no vacancies in the category. Subsequently  
on his request he was posted to Kendriya Vidyalaya,  
Sirsa. He thereafter sought a transfer back to  
Kendriya Vidyalaya, Fatehgarh stating that there was

vacancies which arose subsequently and in terms of guidelines of Kendriya Vidyalaya Sangathan themselves contained in letter No.F.1-3/99- KVS(Estt.III) dated 30-3-2000 providing relief to transferred surplus teachers, a condition of which he fulfills in as much as he was declared earlier as surplus teacher and transferred out. He has sought a posting back to KVS, Fatehgarh within a period of six months from the date he was transferred on being a surplus. As he fulfills the two conditions for being posted back to Kendriya Vidyalaya, Fatehgarh, he has every right to be posted back and, therefore, the impugned order dated 30-6-2000 was incorrect improper and should be set aside, the applicant pleads.

3. On behalf of the respondents Shri S.Rajappa, learned counsel states that the applicant was declared originally surplus at Kendriya Vidyalaya, Fatehgarh and was posted to New Majiri, Maharashtra, as he could not be adjusted in Uttar Pradesh. He was subsequently on his own request adjusted in Kendriya Vidyalaya, Sirsa. That being the case he cannot come up with a request that he should have a right get posting back to Kendriya Vidyalaya, Fatehgarh with all consequential benefits. Shri S.Rajappa, counsel further points out that the order in terms of which the applicant was rendered surplus in Kendriya Vidyalaya, Fatehgarh and transferred out has not been challenged by the applicant. Though he was originally transferred to New Majiri, his having been once adjusted by a subsequent transfer at Sirsa, he cannot get any further benefits of the relevant guidelines, asked by him.

4. In his reply, Shri Trivedi, learned counsel for the applicant points out that since his posting to Sirsa was only in modification of his original posting to New Majiri, the same should not be taken as a request transfer so as to render his request for posting back to Fatehgarh as incorrect or improper. As the request was being made by him in terms of the guidelines he should not be denied it says Shri Trivedi.

5. I have carefully considered the matter. It is not disputed that the applicant had to be transferred out of Fatehgarh as he was one among the Teachers who have been rendered surplus among the various schools under the KVS and who were adjusted on transfer in various other schools. This was strictly in accordance with the policy and he was posted to New Majiri, Maharashtra on account of the non-availability of the vacancies in Lucknow, Agra, Mathra, Kanpur and Bareily all in Uttar Pradesh which were his places of choice. But subsequently he was adjusted in Sirsa on his own request. The posting to Sirsa was on his own request and as indicated by the applicant himself that this was in modification of his earlier posting to New Majiri at Maharashtra. It has to be held and has been correctly held as a transfer made on his request. During the course of his arguments Shri S. Rajappa arguing for the respondents has stated that the determination of number of teachers in a school, number of students and classes etc. in an individual Kendriya Vidyalaya is a matter which is better left to the administration and it was not the matter for the

Tribunal to adjudicate, a view endorsed by the Co-ordinate Bench of this Tribunal (Jodhpur Bench in OA No. 185/2000). This is a sound principle. It is also significant that the applicant himself was not challenging the order by which he was placed surplus. He is seeking recourse only to the instructions relating to surplus teachers who had been transferred out and who could seek and be considered for posted back to the schools where from they were transferred, if they make request within six months from the date of such transfers on being declared surplus. According to the applicant his adjustment at Sirsa, was just a modification of the order earlier made to New Majiri and should not be considered as a posting of his choice or request forfeiting his right to be posted back to Fatehgarh. I am not inclined in the facts and circumstances of the case, to interfere with the transfer order as the place where he is working in a place of his choice. Still keeping in mind the fact, that he was forced to make Sirsa, his choice his having been posted to New Majiri, denying his posting at Lucknow, Mathura, Agra, Bareilly, Kanpur, some leniency is called for. As such I feel that interest of justice would be adequately safeguarded if his posting back to Fatehgarh or nearabouts is favourably considered and decided upon by the respondents as his case appears to fall within the parameters of the guidelines. I order accordingly.

6. OA is accordingly disposed of. No costs.

( Govindan S. Tampi )  
Member (A)

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