

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1772/2000

New Delhi, this the 13th day of March, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Shri R.P.Bhargava
S/o Shri A.S.Sharma
R/o House No.584/3
Mehrauli
New Delhi - 110 030.

...Applicant

(By Advocate Shri Harvir Singh)

V E R S U S

1. The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016.
2. The Assistant Commissioner (Admn)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016.
3. The Assistant Commissioner (Delhi Region)
Kendriya Vidyalaya Sangathan
JNU Campus
New Delhi - 110 067.
4. The Chairman/Deputy Commissioner
Kendriya Vidyalaya Management Committee
Kendriya Vidyalaya Jhajhar
District Jhajhar
Haryana.

...Respondents.

(By Advocate Shri S.Rajappa)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi, Member (A)

In this OA, order F.7.08/2000-KVS (Estt-II) dated 28-8-2000, transferring the applicant from KV Jhajjar to KV, ITBP, Sarahan is under challenge.

2. Heard S/Shri Harvir Singh and S.Rajappa, learned counsel for the applicant and the respondents respectively.

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3. The applicant who joined as a Post Graduate Teacher (PGT), in KVS in 1973, became Principal in 1994 and was posted to Abohar. He thereafter requested for being posted in New Delhi, on account of his ailments, necessitating treatment at AIIMS, but he was posted to Jhajjar where he has been working since then. Suddenly, by the impugned order, he has been shifted to KV, Sarahan, Himachal Pradesh, where he will be inconvenienced on account of lack of facilities. ^{for treatment} This order has been arbitrary and unjust and against the principles of natural justice. The applicant states that under his stewardship the School's performance has gone up considerably and the Deputy Commissioner of the District Jhajjar who is also the Chairman of the concerned KV has recommended ^{for} his continuation ⁱⁿ the present post. On humanitarian considerations, it is necessary that he is retained in the present station by cancelling the impugned order or by adjusted in some other KV near Delhi.

4. In the counter affidavit filed on behalf of the respondents and reiterated during the oral submissions by Shri S.Rajappa, learned counsel, it is pointed out that the impugned order has been issued in public interest and in strict consonance with the guidelines governing the transfers and posting of Teachers attached to KVs. In this case, the applicant was transferred out from KV, Jhajjar, where he has been working since July, 1997, as it was found that his performance in the said School has been below par and the School administration has suffered

considerably. The Assistant Commissioner supervising the School in his report F33/2000-KVS (DR)/AC/14009 dated 19-6-2000, issued after inspecting the School, recommended for the applicant's transfer out of the region, to be replaced by a younger and a dynamic Principal. Shri Rajappa, Id. counsel forcefully argued that this was the only course of action they could have taken in the circumstances of the case, and the same was covered under para 6 (i) read with para 5 (i) of the transfer guidelines. This transfer has been effected on administrative grounds and the same cannot be assailed. He further points out that merely because an individual claims to be unwell, he cannot be continued in a place of his choice, holding responsible job of the Principal of a KV. The applicant's request cannot be endorsed and the OA should be dismissed, according to Shri Rajappa.

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5. Responding to the above Shri Harvir Singh, learned counsel for the applicant, fervently argues that the report of the Assistant Commissioner, on the basis of which the applicant has been transferred out, places a stigma on the applicant and, therefore, the transfer was liable to be quashed and set aside, as being issued without the proper process of law of show cause notice and further proceedings. The of the applicant has been ~~besmirched~~ ^{reputation} in this process and the Tribunal should come to his rescue and do him justice, is what Shri Harvir Singh prays. In the alternative, the applicant may be given a posting as Principal in some KV in or around Delhi, which would enable him to take treatment for his ailments.

6. I have carefully considered the matter and ^{Amr} convinced that the order issued by the respondents are in correct exercise of their powers, in terms of transfer guidelines. The applicant's transfer has been on administrative grounds and it was issued in the wake of a detailed inspection report issued by the Asstt. Commissioner of KVS, who had personally visited the School. The said report contain a specific recommendation that the applicant had failed to perform duties expected of him as the Principal and that he deserved to be replaced by a younger and more dynamic Principal. The rationale behind the transfer cannot be questioned. The applicant's plea that the transfer should have been preceded by a Show Cause Notice is not acceptable as it has been issued in correct and proper exercise of the powers vested in the respondents, on administrative grounds. The Tribunal cannot direct the respondents to keep the applicant Incharge of particular KV where he has not performed properly. Even otherwise he has on account of the interim relief granted, continued to be posted in the same place for about one year and five months, ^{as per him} *Transfer*. This is the maximum relief he can get. He has, therefore, to accept the transfer order from Jhajjar. At the same time, I feel that some consideration has to be shown for his need for treatment in AIIMS, on humanitarian grounds.

7. In view of the above, the OA fails on merits and but gains on compassionate ground marginally and is accordingly disposed of. While upholding the validity of the impugned order No.F.7.08/2000-KVS (Estt.II) dated 28-8-2000,

transferring the applicant from KV, Jhajjar to KV, ITBP, Sarahan, the respondents are advised to consider posting him to any one of KV, which falls within the radius of 250 Kms. of Delhi. This may be done within two months from the date of receipt of a copy of this order. The interim order granted on 7-9-2000 will stand automatically vacated with the issuance of the fresh order. No costs.

(GOVINDAN S. TAMPI)

MEMBER (A)

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