

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2461/2000

New Delhi, this the 20th day of the December 2001

HON'BLE MR. M.P.SINGH, MEMBER (A)

VB Saxena,
Yoga Teacher,
Kendriya Vidyalaya,
Mathura Refinery Project (MRP)
Mathura.

(By Advocate: Shri Anil Shrivastav) ... Applicant

V E R S U S

The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.

(By Advocate: Shri H. Jayaramana for Shri S. Rajappa) ... Respondents

O R D E R (ORAL)

By filing the present OA under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought direction to quash and set aside the order dated 14.11.2000 whereby he has been transferred from K.V. MRP, Mathura to K.V. DLW Varanasi.

2. Brief facts of the case as stated by the applicant are that he was working as Yoga Teacher at K.V. MRP, Mathura. According to him, his wife was also working as PRT at the same school and both the applicant and his wife completed more than 12 years at that school. The applicant did not make any request to the respondents for his transfer from Mathura to any other place. But he has been transferred under the provision of Para 10 (1) of the Transfer Guidelines which speak of transfer at the request of a teacher if he has rendered 3 years of continuous stay in the North East and hard stations

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and 5 years elsewhere, or by teachers falling under the proviso of Para 7 or very hard cases involving human compassion. According to the applicant, he does not satisfy any of these 3 requirements and, therefore, cannot be transferred under the provisions of Para 10 (1) of Transfer Guidelines. Aggrieved by this he has filed the present OA seeking the aforesaid relief.

(16)

3. The respondents in their reply have stated that the representation of the applicant was considered and disposed of by passing an order dated 13.12.2000. In the said order, it is stated by the respondents that the transfer of the applicant is on the ground that the applicant, a Yoga Teacher, has been working since 4.10.1986 i.e. for more than 13 years in the same station (Mathura) and his transfer from KV MRP Mathura is very much essential to accommodate another Yoga Teacher working at a place not of his choice i.e. KV DLW Varanasi for more than 11 years, which is in accordance with para 10 (1) of KVS transfer guidelines. It is also stated by the respondents that the representation made by the applicant has been disposed of by passing a reasoned order by the Commissioner, rejecting the same. A fresh cause of action has, therefore, arisen for the applicant and he has not chosen to challenge the same. Unless the order dated 13.12.2000 is challenged, this OA is not maintainable. In view of the submissions, the OA is liable to be dismissed.

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4. I have heard Shri Anil Srivastav, learned counsel for the applicant and Shri H. Jayaraman, learned proxy counsel for the respondents.

(17)

5. It is an admitted fact that the applicant has been working at KV, MRP, Mathura for last 14 years. He has been transferred from Mathura to Varanasi under the provisions of Para 10 (1) of the KVS Transfer Guidelines, as he has the longest stay at KV, MRP, Mathura. The learned counsel for the applicant has failed to establish that the applicant does not have the longest stay at Mathura. It is a well settled position by the Hon'ble Supreme Court that transfer order cannot be interfered by the court unless there is a malafide or it is in violation of statutory rules. In this case, there is no violation of statutory rules in transferring the applicant from Mathura to Varanasi. He has completed more than 5 years at one place and also no malafide has been alleged against the respondents.

6. In this view of the matter, the OA is devoid of merit and is accordingly dismissed. There shall no order as to costs.


(M.P.SINGH)
MEMBER(A)

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