

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.53 of 2000

New Delhi, this the 29th day of May, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Jasbir Kaur Gill
W/o Shri Mahender Pal Gill
R/o House No.1217/7-D, Faridabad
Posted at Kendriya Vidyalaya No.2,
Faridabad.

-APPLICANT

(By Advocate: Shri R.K. Gupta)

Versus

1. Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shahidji Singh Marg,
New Delhi-110 016
Through Deputy Commissioner/
Principal Secretary (ADMN).
2. Assistant Commissioner (Delhi Region)
JNU Campus, N.M. Road,
New Delhi-110 068.
3. Vice Chairman
Vidyalaya Management Committee,
Faridabad//Commissioner,
Municipal Corporation,
Faridabad (Haryana).
4. Principal,
Kendriya Vidyalaya No.2,
NH-4, NIT Faridabad,
Haryana.
5. Smt. Anita Vashist,
PRT, Kendriya Vidyalaya No.2,
Faridabad, Haryana.
6. Zile Singh Chhikhara, EO,
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shahidji Singh Marg,
New Delhi-110 016

-RESPONDENTS

(By Advocate: Shri S. Rajappa)

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By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant is aggrieved of her transfer order from Faridabad to Paluwas (Bhiwani) on account of public interest.

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2. The applicant is working as a teacher in the Kendriya Vidyalaya Sangathan (hereinafter referred to as KVS). She alleges that she has become the victim of conspiracy hatched by one Shri Zile Singh Chikra a former Principal of the School where she was posted and now the said respondent No.6 is working as an Education Officer in the KVS. The said respondent No.6 with the help of Shri Satya Prakash Sharma father of a student Master Prateek Sharma hatched the said conspiracy. The applicant came to know of the conspiracy only through a news item published in a local news paper Dainik Jagaran dated 30.4.98 wherein it was alleged that the applicant had given a severe beatings to Master Prateek Sharma on 21.4.98. It is further alleged that again on the next day of news item it was mentioned that Prateek Sharma was again given beating in the presence of his father. The applicant was then served a memo dated 29.4.99 by respondent No.6 the then Principal about his complaint of beating a student badly with a dunda. The applicant was directed to file a reply to the memo but respondent No.6 constituted a fact finding Committee consisting of one Shri D.R. Vashist, Smt. Sankutla Bhatia and Smt. Renu Arora who submitted their report. Thereafter a charge-sheet was issued to the applicant under Rule 14 of the CCS (CCA) Rules, 1965 as applicable to the employees of KVS.

3. It is further submitted by the applicant that she had challenged the action of the respondents before a Civil Court and the suit is stated to be still pending and in the meantime the applicant had also filed a

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criminal cases against respondent No.6 and in that criminal case he had levelled allegations against the two Editors of Sandhya Times and Dainik Jagaran including Shri G.D. Sharma, Assistant Commissioner (DR) Satya Prakash Sharma father of Master Prateek Sharma and Dr. Ashok Kumar. Respondent No.6 and one of the editor of the newspaper had been summoned and they are on bail.

4. It is further pleaded that since respondent No.6 was served with a summon from the Court of Shri J.S. Chauhan, CJM, Faridabad, he along with respondent Nos. 4 and 5 visited the residence of the applicant and misbehaved badly with the applicant. The respondent No.4 even threatened the applicant to the extent that in case if the criminal complaint is not taken back the applicant will have to face the dire consequences and passed unbearable remarks in the presence of his own wife. The applicant also filed a detailed complaint with the Commissioner, Kendriya Vidyalaya requesting therein for cancellation of the transfer order.

5. It is further submitted that after the said complaint the said respondent No.6 along with respondent Nos. 4 and 5 again tried to man-handle with the applicant in the school but she somehow saved herself after jumping the boundary wall of the school and immediately rushed to the police station and lodged a complaint with the help of one passer-by. Thereafter when the applicant went to school respondent No.4 did not allow her to join duties. The applicant sent a registered letter also to respondent No.4 as well as to respondent No.3 that she was not allowed to join duties.

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Though applicant tried to meet respondent No.3 but respondent No.3 is stated to be completely under the control of respondent No.4 and did not listen to the grievances of the applicant.

6. It is further submitted that in the meantime the respondent No.4 had threatened him as threatened in the earlier letter dated 27.9.99 and was successful to get the applicant transferred from KVS Faridabad to Paluwas (Bhiwani) vide order dated 28.9.99 and transfer order was accompanied with relieving order dated 29.9.99. So in this background the applicant states that the transfer order is liable to be quashed as the same has been issued in a mala fide manner as all these persons have hatched a conspiracy to get her transferred. Instead of taking action against respondent Nos. 2 to 6 on the complaint of the applicant, this transfer order has been issued as the respondents do not want that the applicant should be able to pursue her case before the criminal court and thus order of transfer passed in the garb of public interest is nothing but has been done to favour the respondents No.6. The sole motive of transfer is that if the applicant is transferred then she will not be able to plead/prosecute her case and either it may be dismissed for default or may lose her case for want of proper instructions.

7. It is also stated that the transfer order is in violation of the transfer policy so it is prayed that the transfer order should be quashed.

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8. The respondents are contesting the OA and they have filed a counter-affidavit. They have submitted that there is no question of any conspiracy that has been hatched by respondent Nos. 5 and 6 because at the time when the transfer order was passed respondent No.6 was not working there so he could not have been the cause for transfer, hence it is submitted that the transfer order has been passed on administrative grounds and in public interest and is passed in exigency of service. It is denied that the applicant is a victim of conspiracy hatched by respondent No.6 and Shri Satya Prakash Sharma, father of Master Partik Sharma.

9. It is further pleaded by the respondents that a complaint was lodged by the father of a student Shri Satya Prakash Sharma regarding beating Master Partik Sharma and on the basis of the preliminary enquiry, a complaint was lodged by Mr. Satya Prakash Sharma which revealed that the applicant was involved in beating the student and under the Kendriya Vidyalaya Sangathan Rules beating of children or inflicting corporal punishment are not allowed in any Kendriya Vidyalaya and on the basis of the report submitted by a Committee, a regular enquiry under CCS (CCA) Rules was initiated and the same is under progress.

10. It is further stated that respondent No.6, who was the head of the school at the relevant time was required to take such steps to maintain administration and discipline of the school and whatever action was taken by respondent No.6 cannot be construed as



vindictive or mala fide because respondent No.6 was to take such step in the capacity of Principal and not as Zile Singh Chhikara as an individual.

11. It is further submitted that since the matter is pending under the departmental enquiry, so the same is not relevant for the purpose of OA.

12. As regards the holding of enquiry under Rule 14 of the CCS (CCA) Rules, 1965 is concerned, it is submitted that issuing of charge-sheet was within the competence of disciplinary authority and the same has no bearing whatsoever on the transfer order.

13. Similarly it is stated that the matter in which the respondent No.6 had been summoned has no relevance because the KVS is not a party there. Moreover it is a matter between the two individuals.

14. It is further stated that the applicant who had been alleging mala fide against respondent No.6 has also started levelling allegation of mala fide against the present Principal, who has joined after respondent No.6 was promoted as Education Officer, which shows that the applicant is in the habit of picking up quarrels and finding faults at the garb of others.

15. It is further stated that the applicant has been issued various memos by various authorities and even the students have complained about her. It is further submitted that even the Group 'D' employees, PRTS etc. have complained about her attitude and behaviour.



16. It is further stated that the applicant being an employee of the KVS is governed by the rules of the Kendriya Vidyalaya Sangathan and all the employees of the KVS under Clause 49(k) of the Education Code carry All India transfer liability and the respondent is the competent authority to transfer the applicant from KVS No.2 Faridabad to KV Paulwas (Haryana) which forms part of the Delhi Division and is done on the administrative grounds.

17. It is denied that the transfer order was passed as a result of the enquiry report submitted by the IO nor the order of transfer was passed on the basis of any illwill towards the applicant.

18. I have heard the learned counsel for the parties and gone through the records of the case.

19. The transfer order ^{is} ~~has~~ annexed by the applicant which at Annexure A-15 shows that the transfer order has been passed is only in respect of one individual, i.e., the applicant and it is not an order passed as a routine transfer order or a periodical transfer order of various employees but it has been issued only in one single case as it has been typed under the name of the applicant. Though the order mentions that the transfer order has been passed in public interest but I have to examine from the pleadings of the parties whether such like order can be said to have been passed in public interest or because of some misconduct on the part of the applicant as a punitive measure.



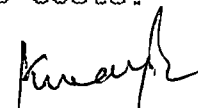
20. For this purpose if I go through the pleadings of the parties, they do smack of the fact that there had been some bickering going on between the applicant and the senior staff members of the KVS including respondent No.6. The fact that the applicant had been driven to the extent to lodge a criminal complaint against respondent No.6, who had also been summoned by the court of the CJM, Faridabad, that goes to show that whatever has been going on in the KVS No.2 Faridabad was not a happy feature and the transfer order appears to be a result of the same. So far as the manner in which the transfer order has been passed followed by the relieving order by next date is concerned, that also shows that the Management or the Principal of the KVS Faridabad somehow wanted to get rid of the applicant so such type of order cannot be said to be issued in consonance with the transfer policy or in public interest or to promote the activities of the organisation where the applicant is working.

21. If at all the conduct of the applicant was such a bad conduct then the only course open to the organisation is to conduct an enquiry about her misconduct and punish her in accordance with the CCS(CCA) Rules but they cannot punish her by passing a transfer order, so the pleadings smack that this transfer order is the result of a punitive measure taken against the applicant, which cannot be sustained and the same is liable to be quashed.

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22. In view of the above discussion, OA is allowed and the impugned order of transfer and relieving order dated 28.9.99 and 29.9.99 are quashed. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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