

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI.

Regn. No. OA 1010 of 1989

Date of decision: 18.7.89

Shri Hira Lal Varshneya

Applicant

VS.

Union of India

Respondents

PRESENT

Shri R.L. Sethi, counsel for the applicant.

Shri M.M. Sudan, counsel for Respondent Nos.1 to 4.

Shri Ghanshyam Singh, Respondent No.5, in person.

CORAM: Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by Shri Hira Lal Varshneya, Language Teacher, Government Boys Senior Secondary School, Jangpura, against the impugned orders dated 5.4.89 passed by the Directorate of Education, Delhi, regarding his transfer to the Central District, Delhi Directorate of Education, Delhi.

2. Brief facts of the case, as stated by the applicant, are that he has been working at the Jangpura School since 1964 and his work has been found very good. Respondent No.5, Shri Ghanshyam Singh, was deputed to the Jangpura School in January 1989 to act as a Drawing and Disbursing Officer and Vice-Principal of the School. He wilfully impersonated as Principal and issued/signed/attested various certificates as Principal of the Jangpura School as would be clear from Annexures A-2, A-3 and A-4 although he was not the Principal. Respondent No.5 illegally acting as the Principal of the School ordered the applicant to hand over charge of Gardening and he signed this order as Principal. The applicant who is the Staff Secretary of the School informally requested Respondent No.5 many a times not to play a fraud with the Government and staff by personating himself as Principal which made Respondent No.5 angry and vindictive against him. The applicant brought this to the notice of the Education Officer of South District, but instead of appre-

ciating his sincere efforts to save the School from the malpractices, ^{of} Respondent No.4, connived with Respondent No.5 and threatened the applicant to ruin his career. The applicant brought this matter to the notice of Respondent Nos.1 and 2 in writing on 17.4.89.

3. It has been stated that it is the declared transfer policy of the Director ^{of} Education that transfer can ordinarily be made if the teacher is declared surplus or it is on administrative grounds or it is a routine transfer on request and none of these conditions exists in the case of the applicant. Under the scheme of decentralisation, transfer of language teachers is made at District level by the Deputy Director of the District within the District. Inter-district transfers are ^{rarely} ~~really~~ resorted to where there are serious charges or complaints against the teacher. Not a single complaint is pending against the applicant. On the other hand, he has received a number of appreciation letters issued by the Principals of the School from time to time. According to the applicant, the law of transfer is well settled by the Tribunal in the case of K.K. Jindal Vs. General Manager, Northern Railway, ATR 1986(1) CAT 304 and the Full Bench judgment in 1989 (1) CAT A/SLJ Vol. 31 Part IV 641, where it has been held that the transfer order should be in public interest or in exigency of service and not arbitrary or ⁱⁿ colourable exercise of power or for settling scores. According to the applicant, the present order is against the declared transfer policy and contrary to the principles of natural justice as it is for settling scores and not in exigencies of service. The transfer has also not been done by the competent authority in accordance with the rules and instructions governing the transfer policy. The transfer amounts to penalty without following the rules prescribed. The applicant has neither been declared surplus nor is it a routine transfer. The applicant has an outstanding record and he has been giving excellent school results and not

been involved in any disciplinary proceedings. He has prayed that the transfer order should be quashed as it stems out of manipulations by Respondent Nos. 4 and 5 who are not favourably disposed towards him.

4. The respondents in their reply have stated that the transfer order is on administrative grounds. The main reason was to avoid unpleasant and indisciplined atmosphere within the School and for this reason the Principal, Vice-Principal, the petitioner and two other teachers have been transferred from the Jangpura School. It has been stated that there were complains against the teachers by higher authorities and the transfer was done in the interest of ^{the} educational institution and in public interest. The atmosphere of education and discipline in an institution are the basis of every school where children of very impressionable age are moulded by the teachers. Normal teaching suffers when there is a conflict between the Principal/Vice-Principal and teachers/staff. The respondents have stated that the authorities had considered this matter at length and the transfer was ordered by the competent authority. The transfer order has already been implemented and the applicant has personally collected a copy of the relieving slip from the new Principal of the School after avoiding service of relieving slip which was sent to him by various means.

5. The applicant in the rejoinder has pointed out that the postings and transfers of Principals is done by the Director and the Deputy Director has no competence in the matter. Respondent No.5 who was earlier Vice-Principal was impersonating as the Principal when the actual incumbent of the post, Shri S.D. Sharma, was available in the School. Respondent No. 5 was posted to the School to act as Drawing and Disbursing Officer, but Respondent No. 3 gave liberty to Respondent No.5 to act as the Principal which he was not. Respondent No.5 who remained in the School for a very short period of three months created differences between staff members and started a dictatorial rule which the applicant being Staff Secretary brought to the notice of the higher authorities. In any case,

if the transfer is because of complaints, it amounts to be punitive in nature as no procedures have been followed. The applicant has never been served with any chargesheet or explanation and he cannot be condemned unheard. It has been denied that two other teachers have also been transferred along with the applicant. It was also stated by the learned counsel for the applicant that it is not correct that the Vice-Principal, Respondent No.5, had been transferred. He was in fact promoted as Principal of another School. The learned counsel for the applicant said that the transfer casts stigma on the applicant as normally inter-district transfers are not made unless there are serious charges against a teacher. Certificates from the Principal as at Annex. A-8 are a clear indication that the applicant was giving good results. The impugned order is a direct result of the malice of Respondent No. 5.

6. Learned counsel for the respondents pointed out that the School at Jangpura was becoming problematic and the discipline and general atmosphere had been vitiated. The former Principal himself had sought transfer and Respondent No. 5 was appointed Vice-Principal and D.D.O. and Head of Office. It is true that the Principal, Shri S.D. Sharma, was transferred in April and left the School on 2.5.89, but he was kept as Principal for receiving his salary from that School. For all practical purpose, Shri Ghanshyam Singh, Respondent No.5, was incharge of the School. He said that there were many complaints against the applicant and the School received by the Chief Executive Councillor and Lt. Governor from students and others. One complaint which was not signed was received by the Chief Executive Councillor through Shri Kuldip Singh, Councillor and Chairman of the DESU Committee and another complaint by Parivar Kalyan Seva Samiti stating that the applicant who was the Staff Secretary was the ring leader for all the troubles. There was a complaint by a doctor and another by parents signed by 51 people. Shri Sudan said that it is immaterial who is right or who is wrong, the main consideration was that there was general indiscip-

line in the School and it was found necessary to shift many persons, including the Principal and the applicant. The transfer was considered at the highest level and made only on administrative reasons. The applicant has already been at Jangpura for 10 years and if the atmosphere in the School was vitiated, his transfer was fully justified. He said that Respondent No. 5 had signed various papers as Head of the Office, but the rubber stamp of the Principal was put by someone in the office and not by Respondent No. 5. He produced the Gardening Stock Register where the document filed by the applicant had the rubber stamp of the Principal but there was no rubber stamp in the copy pasted in the Gardening Stock Register.

7. The learned counsel for the applicant, Shri R.L. Sethi, said that no action could have been taken on various complaints against the applicant as they were mostly anonymous or by public men, but there was no complaint from the Parents-Teachers Association and the transfer was based on the basis of just a slip where the Joint Director had asked for transfer of three persons, but only the applicant was transferred.

8. Respondent No. 5 has denied that he ever received any complaint from the applicant regarding his signing papers as the Principal of the School and that the complaints regarding the working of the School were prior to his joining the School. He confirmed that the former Principal, Shri S.D. Sharma, had been transferred to the T.V. Branch as an internal arrangement but Shri Sharma continued to be Principal of the Jangpura School for the purpose of drawing pay only. He was actually not working at Jangpura and for all practical purposes, he was looking after the School since 5.1.1989.

9. The Miscellaneous File concerning the Jangpura School was produced in the court. This contains a number of complaints against the applicant as well as others, including a newspaper cutting in the Hindi paper 'Jansatta'. This report indicates about

the corruption and general indiscipline in the School and has even named Respondent No. 5.

10. Another file of the Department No. F2-S-17/89 deals with the complaint of the applicant against Respondent No.5. There is noting by the Deputy Director of Education that the complaint is the result of the efforts of Respondent No.5 to bring discipline in the School. It says that this School has always been a problem-School and that the applicant is one of the teachers who took a leading part in opposing the activities of Respondent No.5. It says that /there are no complaints against the applicant, all the Principals who have worked in the School had verbally requested the Deputy Director to remove the applicant from the School. This matter was discussed by the Joint Director with the Director of Education and Additional Director of Education confirming the transfer of the applicant. It is also seen that the transfer had been initiated by the Joint Director who had recorded a note on a slip that the applicant and two other teachers should be transferred not to a nearby School, but on inter-district transfer.

11. I have gone through the pleadings and arguments on both sides carefully. There appears to be no doubt that Jangpura School was having problem of indiscipline for some time and the general atmosphere was not cordial. It may be true that the applicant is a competent Sanskrit Teacher and as Secretary of the Staff taking a very active part in various matters, specially the alleged high-handedness on the part of Respondent No.5. Respondent No.5 has stated that while he was the Vice-Principal, he was for all practical purposes incharge of the School as the Principal was there only to receive salary but was not working in the School after January 1989. The former Principal himself had asked him to bring some discipline in the School. The main allegation of the applicant against Respondent No. 5 was that he has been impersonating as the Principal and putting ^{his} rubber stamp. This does not appear to be a very

relevant matter. There is no denying that Respondent No.5 was the Vice-Principal, Head of Office and the D.D.O. and perhaps for all practical purposes incharge of the School. He denies he has been officiating as the Principal, but even if he was acting as the Principal, perhaps this by itself is not enough to say that there is any malice or fraud in this. The Deputy Director of Education in her note has clearly stated that many Principals had complained against the applicant and that this matter was considered at length by the Additional Director/Director of Education. The transfer order does not cast any stigma on the applicant. It is a simple transfer order from one District to another. I feel that inter-district transfer in the interest of general atmosphere in the School without casting any stigma on the applicant is justifiable. The transfer itself cannot be considered arbitrary, malafide or colourable exercise of power by the educational authorities. If in the larger interest of children's education and discipline, the authorities find it necessary to make some transfers, they should be allowed to do so. In such circumstances, I see no reason to interfere with the transfer order. The application is dismissed accordingly. There will be no orders as to costs.


(B.C. Mathur) 18/7/87

Vice-Chairman