

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00127/2020

Reserved on : 11.08.2020
Pronounced on : 25.08.2020

CORAM

**HON'BLE MRS. JASMINE AHMED, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

Gulab Chand Meena S/o Shri Raghunath Meena, aged about 34 years, R/o 8/4, Staff Colony, Kendriya Vidyalaya, Air Force, Uttarlai, Barmer (Raj.). Presently posted on the post of TGT Science at Kendriya Vidhyalaya Uttarlai, Barmer (Raj.).

.....Applicant

By Advocate: Mr. Jog Singh Bhati, present, through VC.

Versus

1. Kendriya Vidyalaya Sangathan through the Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.110016.

2. The Assistant Commissioner (Estt.-II), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.110016.
3. The Deputy Commissioner, Kendriya Vidyalaya Sangathan (R.O.), 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur 302016.

.....Respondents

By Advocate: Mr. Avinash Acharya, present, through VC.

ORDER (ORAL)

Per Hon'ble Mrs. Jasmine Ahmed, Member (J)

The applicant by filing the present OA u/s 19 of the Administrative Tribunals Act, 1985 has prayed for the following reliefs:-

"In view of above submissions it is most respectfully prayed that this Original Application may kindly be allowed and the respondents may kindly be directed to modify the order of the posting dated 26.06.2019 qua the applicant to the vacant post of TGT Science at Kendriya Vidyalaya No.5, Mansarovar, Jaipur, in the alternate at the post of TGT Science in Other Kendriya Vidyalaya at Jaipur.

Any other relief which this Hon'ble Tribunal deems just & proper in the case may also please be awarded in favour of the applicant."

2. Brief facts of the case, as stated by the applicant, are that the applicant joined the respondent department on

the post of PRT upon direct recruitment after due process of selection on 30.03.2009. He was initially posted to Kendriya Vidyalaya (KV), Ukhrul, Manipur at Burma Border from 30.03.2009 to 27.05.2011, which is considered to be a very hard station. Thereafter, he was posted to KV, Gangapur city from 30.05.2011 to 15.02.2014 and then to KV No.3, Jaipur, where he worked from 17.02.2011 to 09.03.2019.

The applicant avers that the respondent department issued a notification on 9/10.04.2018 for selection through Limited Departmental Competitive Examination (LDCE) for various posts including the post of Trained Graduate Teacher (Science) for the vacancy created in the year 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19. The applicant submitted application for the said post and appeared in the written test. The applicant successfully cleared the examination held for promotion to the post of TGT (Science) and the panel for promotion of PRT to TGT for the vacancy year 2014-15 to 2018 to

be filled through LDCE-2018 was declared on 31.1.2019, whereby name of the applicant find mention at Sl.No. 438 for the year 2015-16.

Thereafter, the respondent department issued promotion-cum-posting order dated 8.3.2019 whereby the applicant was given posting at Ferozpur BSF (KMS Wala), Chandigarh Region, which is approximately 650 Kms from Jaipur. The name of the applicant finds mention at Sl.No.11 for the vacancy year 2015-16 of the said list.

The applicant further stated that his son is suffering from a rare disease of bones and is of 4 years and 6 months and in dire need of surgery. He is under treatment from Rare Disease Centre established in J.K.Lon Hospital, S.M.S. Hospital, Jaipur. The treatment is being given by the Specialised Paediatric Orthopaedic Surgeon, and he has advised surgery for his son. Hence, posting of the applicant to Firozpur (Punjab) was unjust

and against the guidelines. The applicant submitted medical documents to the respondents while making representations for modification of his posting place. According to the applicant, he is also suffering from disease of Retina (Eyes) and is taking regular treatment. In view of all above hardships, the applicant made a representation to the respondents on 11.3.2019 i.e. before joining the new place of posting, but the said representation was kept pending and no heed was paid to the same. The applicant further states that he appeared before the respondent authorities and explained his circumstances thereby praying for posting him to Jaipur or any other nearby place, but apart from assurance, nothing was done.

In the meantime, many discrepancies in issuance of the posting order came to the notice of the Sangathan, therefore, the Sangathan issued letter dated 7.6.2019 whereby it was communicated that despite efforts made to accommodate the promoted candidates to their

respective schools or any nearby places according to the policy decisions, still there have been some grievances for which the Sangathan has invited application through mail. The applicant submitted representation dated 14.6.2019 in pursuance of the aforesaid letter requesting for posting him to the vacant post of TGT (Science) available during the said period at KV No.3 Jaipur or at KV, Dausa, but instead of posting him to KV, Dausa he was posted to a hard station i.e. KV, Uttarlai, Barmer, which is almost 550 Kms from Jaipur. Therefore, the respondents by way of modification have increased the difficulty of the applicant, as he is suffering from disease of retina which is effected by dust and sand to a large extent. The applicant has further stated that the respondent authorities made discrimination in redressing the representations for modification of transfer order on promotion, whereby Shri Mukesh Kumar Sharma, TGT (Science) who was earlier working at KV, Itarana, Alwar was posted to KV, Bharatpur (distance between stations

is 100 Kms) on promotion and later when he put the request for modification, the same was considered and was given posting to KV No.3, Jaipur (distance between stations is 180 Kms), which is highly discriminatory and there is no justified reason for giving him preference over the genuine claim of the applicant.

The applicant has further stated that aggrieved of action/inaction of the respondents, he submitted representation dated 17.7.2019 (Ann.A/3), since at that point of time, the annual transfers were also under process and also preferred OA No.164/2019 before this Tribunal on various grounds among the urgent treatment of his son at Rare Disease Centre, Jaipur. Vide order 23.7.2019 (Ann.A/4), this Tribunal decided the OA and directed the respondent authorities to decide the representation dated 17.7.2019 sympathetically and pass reasoned and speaking order. After receipt of order dated 23.7.2019 the applicant submitted representation to respondent authorities followed by letter of his counsel

for due compliance of the order of this Tribunal, but the respondent authorities kept stoic silence over the matter and did not respond to the representation filed under directions of this Tribunal. Further, the applicant appeared before respondent Nos. 1 and 2 and submitted his grievance on 12.11.2019 stating that a post at Phulera is vacant and looking to his difficulty, the Sangathan may issue favourable orders. The applicant once again submitted representation through proper channel dated 21.12.2019, reiterating his plea for his transfer to Jaipur (Ann.A/7). Respondent No.3 further took cognizance on the matter and vide forwarding letter dated 6.1.2020 (Ann.A/9) strongly recommended the case of the applicant and verified the vacancy available at KV, Phulera. But respondent Nos. 1 and 2 again sat tight over the matter and chose not to extend any relief to the applicant, therefore, the applicant through his counsel sent notice for initiation of contempt proceedings, but of no avail (Ann.A/10).

In the meantime, respondent No.3 sanctioned one post of TGT (Science) at KV No.5, Mansarovar, Jaipur on 22.6.2020 (Ann.A/11) and hence the same may be given to the applicant, because there is no annual transfer process is initiated and no one can claim transfer to the aforesaid post.

Hence, aggrieved by the inaction on the part of the respondents, the applicant has filed the present OA praying for the reliefs as mentioned in para-1 above.

3. By way of brief written submissions, the respondents have submitted that the applicant while working as PRT, KV No. 3 Jaipur was promoted to the post of TGT (Science) through LDCE-2018 with posting at KV, BSF Ferozpur vide KVS (HQrs) New Delhi OM dated 08.03.2019. Later on, the applicant applied for change/modification of his place of posting vide his representation dated 11.03.2019 for - i) KV, Dausa, (ii) KV, Jalore, (iii) KV No. 1 Bikaner and any KV under the

jurisdiction of Jaipur Region. Accordingly, his request has been considered and acceded to by the competent authority and his place of posting was modified from KV, BSF Ferozpur to KV, AFS Uttarlai (Jaipur Region) on his request vide KVS (HQ) Office Modification Order dated 26.06.2019 where he joined his duties on 29.06.2019 on promotion as TGT (Science). The applicant filed OA No. 164/2019 before this Tribunal for modification of order dated 26.06.2019 again, which was disposed of by the Hon'ble Tribunal at admission stage vide order dated 23.07.2019 with the direction to decide the representation of the applicant by passing reasoned and speaking order wherein this Tribunal observed that the applicant has approached prematurely as the representations of the applicant are still pending. The representation dated 11.03.2019 for modification of posting of applicant was already decided vide order dated 29.06.2019. The competent authority passed the reasoned and speaking order vide memorandum dated

27.08.2019 in compliance of order dated 23.07.2019 of Hon'ble Tribunal vide which the request of the applicant for change of place of posting was not acceded to due to non-availability of vacancy at Jaipur station or nearby Jaipur station. However, for the reasons best known to the applicant, the said vital fact has not been brought to the knowledge of Hon'ble Tribunal while preferring the present Original applicant. Further, the representation dated 11.03.2019 has also not been produced wherein specific request was made by applicant that he may be posted at any KV under the jurisdiction of Jaipur Region and on the basis of which order dated 26.06.2019 was issued wherein the place was modified from KV, BSF Ferozpur to KV, AFS Uttarlai (Jaipur Region).

4. Heard Shri Jog Singh Bhati, learned counsel for the applicant and Shri Avinash Acharya, learned counsel for the respondents, present, through Video Conferencing.

5. Upon query from learned counsel for the respondents, the Bench came to know that a new post of TGT (Science) for second shift has been introduced at K.V. No. 5, Jaipur. Learned counsel for the applicant vehemently pleaded that the applicant should be accommodated in this newly sanctioned post. Learned counsel for the respondents also very fairly states that though the representation of the applicant was decided as per the direction of this Tribunal, but somehow, it was not served upon the applicant.

6. We feel that the applicant is having a genuine problem and when a new post of TGT (Science) has already been created at KV no.5 at Jaipur, the applicant can be adjusted in that post, to which learned counsel for the respondents has no objection. Accordingly, the respondents are directed to accommodate the applicant by giving him posting to the newly created post of TGT (Science) at K.V. No. 5, Jaipur (2nd shift).

7. With the above said directions, the OA is allowed.

(ARCHANA NIGAM)
MEMBER (A)

(JASMINE AHMED)
MEMBER (J)

R/ss