

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 30th day of ^{Apr}~~May~~ 2001.

Original Application no. 494 of 2001.

Hon'ble Maj Gen KK Srivastava, Member-A.

Hadi Hasan, S/o Sri Mehndi Hasan
R/o C-305 G.T.B. Nagar (Kareli),
ALLAHABAD.

... Applicant

C/A Sri M.A. Siddiqui

Versus

1. Union of India through the Secretary
Human Resources Development Ministry,
NEW DELHI.
2. Assistant Commissioner, Kendriya Vidyalaya,
Sangathan, Regional Office Sector 'J',
Aligarj, Distt.
LUCKNOW.
3. Principal, Kendriya Vidyalaya, New Cantt,
ALLAHABAD.
4. Aditya Prakash, SUPN Teacher, New Cantt,
ALLAHABAD.

... Respondents

C/Rs Sri V. Swroop

...2/-



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O R D E R (Oral)


Hon'ble Maj Gen K.K. Srivastava, Member-A.

Through this O.A. the applicant has prayed for quashing the transfer order dated 13.04.01 passed by respondent no. 2 (Annexure 1), transferring the applicant from K.V. New Cantt, Allahabad to K.V. Manauri, Allahabad.

2. The brief facts of the case are that the applicant was appointed as Electric Guzzutte teacher at K.V. Babina, Jhansi in the year 1971 and he was transferred to K.V. New Cantt, Allahabad on 11.7.76. The applicant was transferred to K.V. Upper Shillong vide order dated 4.12.2000. The applicant made a representation to the Commissioner, K.V. Sangathan, New Delhi, on the ground of his wife's service in K.V. New Cantt, Allahabad, his father's illness and also that the residual service of the applicant was less than 2 years (14 months only), on 22.11.2000 for cancellation of transfer order dated 14.11.2000. The cancellation order was issued on 27.12.2000, duly approved by Commissioner, K.V. Sangathan. Pursuant to cancellation order, the applicant was relieved from Upper Shillong on 31.01.01 and joined at K.V. New Cantt, Allahabad. The applicant has again been transferred to K.V. Manauri vide impugned order dated 13.4.01 (Annexure A-1) showing the applicant surplus. Hence this controversy.

3. Learned counsel for the applicant submitted

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that the policy for the transfer of surplus teachers has been laid down in K.V. Sangathan, New Delhi, letter no. F.1-3/99-KVS (Estt. III) dated 30.03.2K, which reads as follows :-

" After careful consideration of all the issues involved, following orders are hereby issued,

(a) In the event of creation or the availability of the vacancy subsequently in the same Kendriya Vidyalaya or nearby Kendriya Vidyalayas at the same station, the surplus teacher who has had the least stay should first be retained/adjusted/ transferred back against the said vacancy provided he/she makes a request to that effect. The benefit of getting transferred back to the same station will be available within a period of six months from the date he was transferred on being found surplus. In the event of such retention/adjustment or transfer, benefits, of transfer will not be available.

(b) In the matter of identification of surplus teachers, teachers who is left with two years will not be identified as surplus. In his/her place, the next teacher will longest stay will now be identified as surplus and re-deployed as per existing policy on the subject. A teacher with less than two years services will also be liable to transferred in case he/she is the only teacher in that cadre and the post is abolished by the sangathan, the period of two years shall be calculated with reference to the date on which the post has been found to surplus by the Kendriya Vidyalaya Sangathan."

Since the applicant's residual service is for 9 months only, he should not be transferred. He

...4/-



also contended that the Commissioner K.V. Sangathan considered his representation dated 21.11.2000 and cancelled the order dated 14.11.2000 vide order dated 27.12.2000 keeping in view the policy laid down in K.V. Sangathan regional office Lucknow letter dated 30.03.2K para 2 'b'.

4. Learned counsel for the respondents submitted that the transfer from K.V. New Cantt, Allahabad to K.V. Manauri, Allahabad is a local one. Besides the applicant has longest stay in K.V. New Cantt. Hence, as per guide lines laid down for the transfer of surplus teachers, the petitioner has been posted out having longest stay at the same school. Learned counsel also submitted that during the period when he was at Upper Shillong one Shri Aditya Prakash (Respondent no. 4) joined the school thereby filling the vacancy and rendering the applicant as surplus on his rejoining from Upper Shillong in February 2001. He resubmitted that no malafide has been established on the part of the respondents and also there has been no violation of rules in transferring the applicant from K.V. New Cantt to K.V. Manauri.

5. Heard learned counsel for the parties and perused the records.

6. I find that the policy letter issued with regard to transfer of surplus staff is quite clear and unambiguous. A teacher who is left with only 2 years to retire will not be identified as surplus and in his/her place the next teacher with longest stay should be identified as surplus for redeployment

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as per existing policy of surplus.

7. In view of the above I dispose of the present O.A. by quashing the impugned order dated 13.4.2001 (Annexure A-1), transferring the applicant from K.V. New Cantt, Allahabad to K.V. Manauri, Allahabad. It is further directed that, if necessary, the respondents may identify ^{someone else as} surplus teacher as per policy laid down vide para 2 'b' of policy letter dated 30.03.2K (Annexure A-5).

8. No order as to costs.


Member - A