

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD, THIS THE 15TH DAY OF FEBRUARY, 2002

ORIGINAL APPLICATION NO.1121/2001

HON'BLE Mr. JUSTICE R.R.K. TRIVEDI .. VICE CHAIRMAN

Smt. Anusuya Pathak, PRT,
W/o Shri V.M. Pathak,
C/o Shri Anil Sinha,
Anil Niwas, House No.106/67, Ram Bagh,
Allahabad.

.. Applicant

(By Advocate Shri Satish Mandhyan)

Versus

1. Union of India,
through Secretary,
Ministry of Human Resources Development,
Shastri Bhawan, New Delhi.

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

3. Deputy Commissioner (Admn),
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.

4. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Section 'J', Aliganj, Lucknow.

5. Principal,
Kendriya Vidyalaya,
Bamrauli, Allahabad. .. Respondents

(By Advocate Shri N.P. Singh)

ORDER-(ORAL)

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman:

By this application under Section 19 of the A.T. Act,
1985, the applicant has challenged the order dated 22-6-2001
by which she has been transferred from Bamrauli (Allahabad)
to Jawaharnagar, Sitamani, Bihar, as Primary Teacher in



...2..

Kendraia Vidhyalaya. She has also challenged the order dated 24-8-2001 by which her representation against the transfer was rejected along with the representations of several other such Teachers. Before filing this O.A., the applicant filed O.A. No.901/2001 which was decided finally on 27-7-2001. The O.A. was disposed of by the following direction.

"The O.A. is accordingly disposed of finally with the direction to the Respondent No.2 to consider and decide the representation of the applicant by a reasoned order within a month. To avoid delay it shall be open to the applicant to file copy of the representation along with a copy of the order. No order as to costs."

2. In pursuance of the aforesaid direction, the representation of the applicant has been considered and decided by order dated 1-10-2001. This order has also been challenged by the applicant by amending the O.A.

3. The learned counsel for the applicant has challenged the order on various grounds including the inconvenience likely to be caused to the applicant if she is transferred to Jawaharnagar. However, it cannot be disputed that transfer is a condition of service and the applicant has been aware this condition from the very beginning, as it was provided the appointment order that the applicant ~~has been~~ joining ^{under} ~~an~~ All India Service and she can be transferred to any place within this country. After joining the service openly, ^{under} ~~such~~ ~~this~~ order, the applicant cannot dispute the transfer except on certain grounds of malafide or arbitrariness.

4. I have perused the order dated 1-10-2001. All contentions of the applicant against the order of transfer have been considered and the reasons stated in the order for not accepting the request of the applicant are justified. It is not disputed that the applicant has been serving for the last 16 years at Allahabad. Another teacher who has been transferred in place of the applicant from Jawaharnagar to Bamrauli has served there for seven years. Thus, the transfer of the applicant was in public interest and there is no question of any malafide or arbitrariness. The respondent No.2, while deciding the representation of the applicant has considered all aspects of the representation, except one, that he has not recorded any reason as to why the applicant could not be accommodated in any other place within the region suggested in the representation, viz., Faizabad, Sultanpur, Lucknow, Kanpur, etc., or Varanasi or Shaktinagar and Mugalsarai of Patna Region.

5. Shri N.P. Singh, learned counsel for the respondents has submitted that for this purpose, a short time may be allowed to Respondent No.2 to consider the case of the applicant and pass orders if ~~she~~ can be accommodated in any of the ^{above} ~~these~~ regions.

6. For the reasons stated above, this O.A. is disposed of finally with a direction to the Respondent No.2 to consider the case of the applicant if she can be accommodated in any of the ~~the~~ regions mentioned above. The order shall be passed within two months.

7. This O.A. was filed on 13-9-2001, before this Tribunal. This Tribunal passed the order that the question of interim relief will be considered after the receipt of the counter affidavit. Against the order of the Tribunal, it appears that the applicant filed a Writ Petition No.32798/2001, which was disposed of after hearing the counsel for parties by order dated 5-11-2001. The order is being reproduced below:

"Heard learned counsel for the parties.

The petitioner is a lady teacher who has been transferred from Kendriya Vidyalaya Bamrauli to Kendriya Vidyalaya, Jawaharnagar, Bihar. She has challenged the transfer order before the C.A.T. and her petition is pending there. But no interim order has been granted by the Tribunal as yet.

On the facts and circumstances of the case, we direct the Tribunal to decide the petition being O.A.112/01 expeditiously and till disposal of the petition, the impugned transfer shall remain stayed. With the aforesaid direction, the petition is disposed of."

8. As this interim order passed by the Hon'ble High Court was operating during the pendency of this O.A., equities are required to be adjusted between the parties. Shri Satish Mandhyan, counsel for the applicant submitted that though the order of transfer was stayed by the Hon'ble High Court, the applicant was not allowed to work at the place at Bamrauli and in view of the interim order, she could not join at Jawaharnagar. Shri N.P. Singh, the learned counsel for the respondents, on the other hand submitted that against the order of Hon'ble High Court, the respondents have filed a Special Leave Petition before the Hon'ble Supreme Court which is pending. But, he has not stated that any interim order



...5..

has been passed by the Hon'ble Supreme Court. As there was no interim order by the Hon'ble Supreme Court, the order dated 5-11-2001 ought to have been respected and given effect.

9. In the circumstances, the applicant shall be deemed to have been working at Allahabad and shall be entitled to get the salary for the period till another order is passed by Respondent No.2, Commissioner, in pursuance of this order. There shall be no order as to costs.



VICE CHAIRMAN.

psp.