

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 18th day of October, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha , Member- A.

Orginal Application No. 1206 of 2001.

Raghavendra Tiwari a/a 48 years
S/o Shri Brindavan Tiwari. R/o Sharafa Bazar,
Babina Cantt. (Jhansi)

.....Applicant

Counsel for the applicant :- Sri R.K. Nigam

V E R S U S

1. Kendriya Vidyalaya Sangthan through its Commissioner, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi- 110016.
2. Dy. Commissioner (Administration), Kendriya Vidyalaya Sangthan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.
3. Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, Babina (Jhansi).
4. Principal, Kendriya Vidyalaya, Babina (Jhansi)

.....Respondents.

Counsel for the respondents :- Sri N.P. Singh

C R D E R (Oral)
(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

This O.A under section 19 of the Administrative Tribunals' Act, 1985 has been filed challenging the order dated 16.05.2001 by which applicant has been transferred from Babina Cantt to Leh as Primary Teacher, Kendriya Vidyalaya and order dated 04.09.2001 by which representation of the applicant has been rejected by the Commissioner, Kendriya Vidyalaya Sangthan.

order dated 04.09.2001 has been passed in pursuance of the order of this Tribunal dated 19.07.2001 passed in O.A 858/01. After hearing applicant and Sri S.A. Khan at length, we are of the view that in the present case as the applicant has come with the plea that he is a patient of Cronic Asthama and he can not sustain in extreme cold climate of Leh, it appears necessary that a medical opinion may be obtained from the panel of doctors of C.G.H.S. It is necessary because the plea of the applicant about his ailment has not been disbelieved but it have been answered by the Commissioner in the following words :-

" As regard to para 6 and 7 of his representation he is informed that he can not avoid transfer on some simple medical reasons for which treatment can be available any where. The undersigned being the Head of the Organisation has to make use of the services of his employees, where ever it is required. The content of para 7 has no relevance to his transfer. "

2. From the above observation of Commissioner, Kendriya Vidyalaya Sangthan, it appears that he has not taken the fact seriously. If a person is unfit to serve at a particular station on account of climatic condition, the welfare of the employee has to be taken into account by the Commissioner. He should have adopted a balanced attitude. The interest of the institute as well as the interest of the person who serve it, both are important. Risk to the life of the employee can not be ignored in the facts and circumstances of a case, like before us.

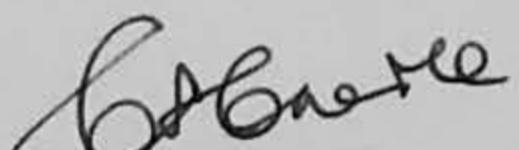
3. In the facts and circumstances mentioned above, this O.A is disposed of finally with the direction to



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Commissioner, Kendriya Vidyalaya Sangathan to get a medical report from the panel of doctors of C.G.H.S regarding ~~element~~^{ailment} of Asthama of the applicant as to whether he can serve in the extreme cold weather at Leh and then pass suitable order in accordance with rules applicable. During this period, applicant shall be allowed to serve at Babina Cantt or in any other Kendriya Vidyalaya where the post is vacant and shall be paid his salary.

4. There will be no order as to costs.



Member - A.



Vice-Chairman.

/Anand/