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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 11th day of March 2005.

Original Application no. 78 of 2005

Hon'ble Mr. K.B.S. Rajan, Member J

Smt. Jagriti Shukla,  
W/o D.S. Shukla,  
R/o Jawahar Navodaya Vidyalaya  
Barua Sagar,  
District Jhansi.

...Applicant

By Adv : Sri M.N. Singh.

V E R S U S

1. Deputy Director, Navodaya Vidyalaya Samiti,  
Lucknow Region, Lucknow.
2. Principal Jawahar Navodaya Vidyalaya, Barua  
Sagar, Jhansi.
3. Principal Jawahar Navodaya Vidyalaya,  
Distgrict Basti.
4. Union of India through its Secretary,  
Ministry of Home Resources Development,  
New Delhi.
5. Smt. Anita Sharma, Jawahar Navodaya Vidyalaya  
Barua Sagar, District Jhansi.

...Respondents

By Adv : Sri N.P. SINGH

O R D E R

The agitation of the applicant is against the transfer order dated 09-07-2001 from JNV, District, Jhansi to JNV Dist. Basti which after earlier round of litigation, culminated in the applicant's preferring a representation dated 24-11-2004 in accordance with the order dated 02-11-2004 of the Hon'ble High Court in Civil Misc. Writ Petition No. 32715/2001 (Annexure 11 of the OA) and in



rejection by the respondents of the same after due consideration, vide order dated 13/17<sup>th</sup> December, 2004, impugned in this OA.

2. The applicant has the Transfer liability under the Rules governing her conditions of service. She had in her representation opted for posting at Kanpur, Lucknow or Jhansi, vide her representation dated 24<sup>th</sup> Nov. 2004. The authorities have considered the request but could not accommodate her for the reasons stated in the impugned order. The relevant extract of the said order is as under:-

"There is only one sanctioned post of Physical Education Teacher (Female) at JNV District Jhansi and Ms. Anita Sharma joined in the above Vidyalaya on 2.8.2001 against one sanctioned post seeking her transfer from JNV District Faizabad to JNV District Jhansi on spouse grounds.

The Transfer orders dated 9.7.2001 in respect of Ms. Jagriti Shukla for posting her at JNV, Basti was on the administrative grounds and Ms. Anita Sharma was transferred to JNV Jhansi in her place.

The choice of Ms. Jagriti Shukla to post her at JNV District Jhansi is not possible as one Ms. Anita Sharma is already working there against one sanctioned post and no post exists vacant at JNV District Jhansi. Likewise, her transfer to JNV, Kanpur Nagar and JNV, Lucknow is also not possible as no vacancy exists at these places.

The post of Physical Education Teacher (Female) is vacant at JNV, District (1) Mirzapur (2) Philiphit. She may seek modification in her transfer order in case she is not willing to join at JNV, District Basti.

Ms. Jagriti Shukla and Ms. Mradula Awasthi, PETs will be at liberty to decide as to where they wish to be posted in any of the JNV where the vacancy exists as above. In either case, they will report in the NVs, Regional Office, Lucknow on 27.12.2004 at their own expenses and decide for their choice and thereafter they will submit their request application for modification in transfer order to the undersigned.

In case Ms. Jagriti Shukla is not willing for her posting in JNVs at District (1) Mirzapur (2) Piliphit, she will join at JNV District Basti within 10 days of receipt of this order, in compliance when the transfer order dated 9.7.2001."

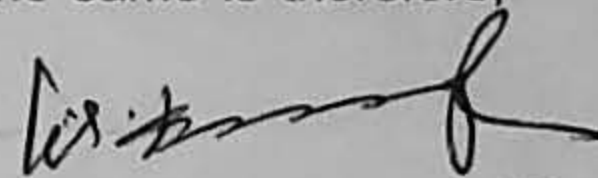
3. During the course of argument, the applicant's counsel emphasized the ground No. VI which is reproduced :

"Because the respondent no.1 has not given any reason as to why Smt. Anita Sharma/respondent no.5 will remain

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posted in District Jhansi in spite of several reasons observed in judgment dated 2.11.2004 passed by the Hon'ble High Court, Allahabad and as such the impugned order passed by the respondent no.1 is wholly illegal and cannot be legally sustained and as such, the same is liable to be set-aside by this Hon'ble Tribunal."

4. A perusal of the High Court order reveals that as regards Smt. Anita Sharma, all that was stated in the High Court order is only as to what has been contended by the writ petitioners. Nothing less, nothing else. There is no direction to the respondent to go into the contention. The order of the Hon'ble High Court was to the effect that the petitioners may file representation before the Deputy Director Navodaya Vidyalaya Samiti, Lucknow Region, Lucknow and the Deputy Director may consider the case and pass appropriate orders. This has been done and justification for not being able to accede to the request of the applicant has been clearly given in the impugned judgment.
5. In view of the above, the O.A. fails and the same is therefore, dismissed. No cost.



MEMBER-J

GIRISH/-