

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 61/1425/2021

This the 20th day of September, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Lovely Devi, Age 38 years, W/o Deputy Nath Sharma, R/o Lower Gadigarh,
Tehsil & District Jammu.

.....Applicant

(Advocate:- Mr. M R Qureshi)

Versus

1. U.T. of J&K through Commissioner/Secretary to Government, School Education Department, Civil Secretariat, Jammu-180001.
2. The Director, School Education Department, UT of Jammu and Kashmir, Jammu-180005.
3. Chief Education Officer, Office of the CEO, Jammu-180001.
4. Zonal Education officer, UT of Jammu and Kashmir, Zone Satwari, District Jammu-180001.

.....Respondents

(Advocate: Mr. Sudesh Magotra, learned D.A.G.)

ORDER
ORAL

(Delivered by Hon'ble Mr. Anand Mathur, Member-A)

Learned counsel for the applicant submits that the applicant was regularized as General Line Teacher in 2010 after completion of five years of service as Rehbar-e-Taleem. As per the policy of the Govt, the applicant applied for the Inter-District transfer from Govt. Middle School Nahoti, Tehsil Sunderbani, District Rajouri to District Jammu on marriage grounds. The Government of J&K, School Education Department vide Govt. Order No. 418-Edu of 2018 dated 23.03.2018 approved and sanctioned the transfer/inter-district adjustment as the case was processed and approved for inter-district adjustment





but while issuing the said order, it was mentioned that the deployment was only for a period of two years. Though, in other similar situated cases, no such period of two years have been mentioned who have been transferred on marriage grounds, as in the Govt. Order No. 418-Edu of 2018 dated 23.03.2018, wherein one Nazia Tabassum, Teacher was transferred from District Doda to District Jammu on marriage grounds but no period was mentioned though the approval was granted on the same date. In pursuance of the Government Order No. 418-Edu of 2019 dated 23.03.2018 and the CEO, Rajouri vide order bearing no. CEOR/E2/51718 dated 28.03.2018, the applicant was relieved by the ZEO, Lower Hathal, District Rajouri vide order no. ZEO/LHJ/1159-60 dated 28.03.2018. The applicant was adjusted by Respondent No. 3 vide order no. CEOJ/NG/86861-63 dated 29.03.2018 at Govt Middle School, Bhour Pind, Ward No. 1, Education Zone Satwari, District Jammu. Since 29.03.2018, as on date, the applicant is working at her present place of posting i.e., Govt. Middle School, Bhour Pind. The applicant filed a representation before Respondent No. 1 as well as in the Lieutenant Governor's Secretariat, J&K seeking further extension of her deployment. The Lieutenant Governor's Secretariat vide Order No. LGS-1(GR)19/2804 dated 04.03.2020 forwarded the request/representation of the applicant to the respondent no. 1, but no action was taken on part of the respondents to consider the representation of the applicant. The applicant being aggrieved of Circular No. CEOJ/NG/2453-553 dated 05.06.2020 passed by Respondent no. 3 approached this Tribunal by filing OA No. 61/889/2020 and this Tribunal disposed of the same by passing order dated 05.10.2020. The operative portion of the order dated 05.10.2020 is reproduced below:-

“We, therefore, dispose of the OA directing that the respondents shall pass orders on the representation submitted by the applicant within a period of four weeks

from today. In case, the applicant has not been relieved as yet, she shall be continued at that place for a period of four weeks. Further steps would depend upon the nature of the decision, which the respondents may take on the representation. We make it clear that if the applicant had already relieved, the direction as to continuing her in the same place would not be effective.”



2. In compliance of the order dated 05.10.2020 passed by this Tribunal, Respondent No. 2 passed the impugned order dated 09.09.2021, wherein the claim of the applicant was rejected and Respondent No.3 has been directed to relieve the applicant to her original place of posting under the garb of local deployment.

3. Learned counsel for the applicant further submits that the Government of J&K through GAD vide SRO 307 of 2018 dated 11.07.2018 under the Provision of Delegation of Powers Act adopted the transfer policy which was notified vide Govt. Order no. 861-GAD of 2010 dated 28.07.2010 stating therein that all proposals relating to powers of transfer, which are presently delegated in the transfer policy at item no. I, II, III, IV & V shall be submitted to the Administrative Department for submission and thereafter the powers were delegated to the designated officer in the Education Department from time to time vide SRO 479 dated 19.10.2018. The adjustment of the applicant in District Jammu was done as per the Govt. Order dated 23.03.2018 passed by the Commissioner/Secretary to Govt. School Education Department, as such the Respondent No. 2 is not a competent authority to pass the impugned order, relieving the applicant to her original place of posting.

4. On the other hand, learned D.A.G. submits that applicant has neither vested right to remain posted at one place of choice nor can she insist to be posted at a particular place. The service benefits, status, seniority, pay scale of the petitioner has been protected

and it is the employer who is best judge as in what manner the capability of an employee has to be utilized. It was submitted that the transfer of the applicants was made purely in the exigencies of work, as per, the transfer policy of the respondent-department. Therefore, the impugned order does not violate any right of the applicants, as such, the OA is not maintainable and be dismissed.



5. We have heard Mr. M R Qureshi, learned counsel for the applicant and Mr. Sudesh Magotra, learned D.A.G. for the respondents and perused the record.

6. Looking to the facts and circumstances of the case, we are of the view that the respondents need to reconsider the case of the applicant. Accordingly, we direct the respondents to reconsider the prayer of the applicant and take a decision on the same by passing a reasoned and speaking order within a period of three weeks from today. Till then, the applicant may not be relieved, if not already relieved.

7. No order as to cost.

(ANAND MATHUR)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)