

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 17th day of October 2000.

Original Application no. 1517 of 1999.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

R.D. Yadav, S/o late Jhulai Yadav,  
R/o Qr. no. III B 42, Vidyut Vihar, NTPC, Sonbhadra (UP)  
Shaktinagar.

... Applicant

C/A Shri B.B. Sirohi, Sri S.D. Dwevedi  
Shri A.N. Ambhust

Versus

1. Union of India, through the Secretary, Ministry of Human Resoruces and Development (Department of Education), Govt. of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangatan, 18. Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Vijay Nagar, Rukunpura, Bailley Road B.V. College, Patna.
4. The Principal, Kendriay Vidyalaya, NTPC, Shaktinagar,
5. The Principal Kendriya Vidyalaya, BHU, Varanasi.
6. The Deputy Commissioner (Academic), Dendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
7. The Assistant Commissioner, Kendriay Vidyalaya Sangathan, Guwahati Region, Guwahati (Assam).
8. Chairman, Vidyalaya Management Committee, Kendriay Vidyalaya, NTPC, Shaktinagar, Sonbhadra.
9. Smt. Chhaya Jha, T.G.T. (Eng.) Kendriya Vidyalaya, Jamalpur (Bihar).

... Respondents

C/Rs Shri V.K. Singh, Shri S.C. Mishra

...2/-

*[Signature]*

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O R D E R (Oral)

Hon'ble Mr. S.K.I. Nagvi, JM

Shri R.D. Yadav, applicant has come up impugning the transfer order dated 11.10.99, the copy of which has been annexed as annexure A-1 to the OA.

2. As per applicants case, when he was transferred from Shaktinagar to Tengavalley, ~~he~~ moved for mutual transfer with Smt. E. Kujur who was posted at BHU, Varanasi to replace him at Shaktinagar and the authorities were kind enough to accede his request and pass order dated 12.11.99. Consequently Smt. E. Kujur was relieved from BHU to join at Shaktinagar, but when the applicant reported at BHU, Varanasi, he was not allowed to join ~~there~~ <sup>here</sup> and ~~some~~ <sup>an</sup> other incumbant namely Smt. Gyatri Jha had already joined there. Now he has come up seeking relief to the effect that the order dated 12.11.99 be given effect and applicant be accommodated at Varanasi.

3. The respondents have contested the case mainly on the ground that the transfer order dated 11.10.99 was passed by central authority at Delhi and when the subsequent order, ~~was~~ <sup>by</sup> the same authority, was passed on 12.11.99, it was not to their knowledge that the applicant had already been relieved from Shaktinagar after having received, on his request the T.A. advance to join at Tengavalley, therefore, this



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*under mistaken facts*

order dated 12.11.99 was passed. Moreover, it has also been pleaded on behalf of the respondents that the order to post Smt. Gyatri Jha, at BHU was passed by regional authority and that was ~~impleaded~~ <sup>implemented</sup> immediately i.e. prior to 12.11.99.

4. Heard learned counsel for the rival contesting parties and perused the record.

5. The present position as has come up from the pleadings and arguments from either side, is that while posted at Shaktinagar, the applicant received transfer order dated 11.10.99 to proceed and join at Tengavalley, in pursuance of this transfer order, the applicant was relieved from his post at Shaktinagar and paid, at his request, the advance for transfer T.A. to join at Tengavalley. <sup>In the</sup> ~~meanwhile~~ <sup>meantime</sup> his request for mutual transfer with Smt. E. Kujur materialised and an order was passed on 12.11.99 for transfer of applicant from Shaktinagar to Varanasi and transfer ~~order~~ of Smt. E. Kujur from Varanasi to Shaktinagar, and now there is no post to accommodate the applicant at <sup>Varanasi</sup> which has already been filled up by the incumbent transferred and posted to join there and also that the applicant has already been relieved and given transfer T.A. to join at Tengavalley. It appears that self contradictory order dated 11.10.99 and 12.11.99 copies of which have been annexed as annexure A-1 and A-2 respectively have been passed out of misunderstanding or communication gap. Only the course remain for the


*See*

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applicant is to join at Tengavalley and for the respondents to redress the suffering of the applicant by considering his case for posting at <sup>Varanasi</sup> ~~BHU~~ when ever occasion arises, <sup>or in the</sup> ~~and not later than~~ next annual transfer period.

6. For the above I find that the relief sought by the applicant through this OA cannot be granted under the circumstances mentioned above, but it is provided that in case the applicant joins at Tengavalley in compliance with transfer order dated 10.11.99, the authorities shall consider his transfer to Varanasi or any other station adjoining Varanasi during the next annual transfer. The O.A. is disposed of accordingly.

7. There shall be no order as to costs.

  
Member-J

/pc/