

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1566 of 1999

Allahabad this the 14th day of December, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Mahendra Singh Solanki, Son of Late Shri Bishram Singh, Post Graduate Teacher in Kendriya Vidyalaya, Mathura Cantt., Mathura, resident of 81, IndusPuran, Mathura, Uttar Pradesh.

Applicant

By Advocate Shri Arvind Tripathi

Versus

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016, through its Principal Secretary/Deputy Commissioner.
2. Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, (Regional Office), 7 Tagore Nagar, University Road, Thatipur, Gwalior.
4. Vidyalaya Management Committee, Kendriya Vidyalaya, Mathura Cantt., Mathura through its Shairman.
5. Principal, Kendriya Vidyalaya, Mathura Cantt. Mathura.
6. Mrs.V. Bisariya, Assistant Commissioner(Off), Kendriya Vidyalaya Sangathan(Regional Office), 7, Tagore Nagar, University Road, Thatipur, Gwalior.
7. Brig.K. Mahadevan, Chairman, Vidyalaya Management, Committee, Kendriya Vidyalaya, Mathura Cantt. Mathura.
8. Shri Raghubir Singh Sarashwat, Principal, Kendriya Vidyalaya, Mathura Cantt. Mathura.

9. Shri Bhagwan Singh Rawat, Principal, Kendriya Vidyalaya, Rewari, Hariyana.
10. Union of India through the Ministry of Human Resources & Development, Government of India, New Delhi.

Respondents

By Advocate Shri V.K. Singh

O R D E R

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

Shri Mahendra Singh Solanki has come up seeking relief to the effect that the order dated 24.6.1999 passed by respondent no.1 be quashed through which he has been transferred from Kendriya Vidyalaya, Mathura Cantt. to Kendriya Vidyalaya, Lokra. In support of his contention, the applicant has narrated some disputes, complaints and bickering in the staff at Kendriya Vidyalaya, Mathura Cantt.. He has also mentioned that complaint by a teacher namely Smt. Sadhna Chowdhari against the Principal of the Institution, which followed inquiry, and as per the applicant, the Principal was transferred on recommendation of Inquiry Officer and in that development of events, the applicant was also transferred who took side of Smt. Sadhna Chowdhari during the inquiry on her complaint. The applicant has assailed the transfer order mainly on the ground that the order has been passed departing the rules norms and the guide lines and on the basis of malacious consideration. It has also been alleged that the impugned transfer order has been passed as a ^{measure} ~~major~~ of punishment for no fault of the petitioner, which is on the basis of recommendation

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of Vidyalaya Managing Committee and the Principal. Amongst the grounds, it has also been mentioned that it is mid session transfer which has been ordered in arbitrary manner, whereas the applicant does not come within the zone of those who were ~~eligible~~ ripe for the transfer.

2. The respondents have contested the case and filed the counter-reply, wherein it has been mentioned that it is a simple routine transfer made in public interest due to service exigencies. The allegations regarding malafide have been specifically refuted.

3. Heard, the learned counsel for the parties and perused the record.

4. During the course of arguments, learned counsel for the respondents mentions that at the request of the applicant, the impugned transfer order was modified to accommodate him at Allahabad, and thereafter at Lucknow but, the applicant did not join ~~and~~ there and remains adamant to continue at Mathura, which is his native place and he is serving there for last 16 years and now the percentage of result in the subject, taught by the applicant, is on receding. Learned counsel for the respondents has also referred the order dated 19.7.2000 through which the impugned transfer order dated 14.6.1999 has been kept in abeyance in respect of the applicant. Shri Mahendra Singh Solanki.

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5. Considered the arguments placed from either side. Learned counsel for the applicant has emphasised that the impugned transfer order is outcome of annoyance of the then Principal against whom Smt.Sadhna Chowdhari made a complaint and the applicant stood up in support of Smt.Sadhna Chowdhari. Learned counsel for the applicant also referred this Tribunal's order dated 26.5.00 passed in O.A.No.832/99 decided on 26.5.2000, through which the transfer order dated 24.6.1999 has been quashed in respect of Smt.Sadhna Chowdhari. Learned counsel for the respondents ^{has} ~~re~~referred the law on the point, as handed down in 1989 S.C.C.(L&S)481 U.O.I. Vs.H.N.Kirtania, J.T.1993(3)S.C.678 U.O.I. Vs.S.L. Abbas, and 1995 (3)S.C.C.page 270 State of Madhya Pradesh Vs. S.S. Kaurav and Others, where their Lordships at Apex Court, are in consensus that who should be transferred to which place is a matter for appropriate authority to decide and unless the order of transfer is vitiated by malafides or is made in violation of any statutory provision, the Court cannot interfere with it.

6. Keeping in view the facts and circumstances of the matter and the ratio in referred case law, it is found that the applicant ^{has} ~~is~~ utterly failed to bring home the allegations of malafide. The impugned transfer order has been passed by Kendriya Vidyalaya Sangathan through its Principal Secretary/Deputy Commissioner as per directions by the Commissioner, Kendriya Vidyalaya Sangathan

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and it is too much to be believed that a Principal of Kendriya Vidyalaya, who himself was under clouds, could prevail upon the Commissioner and the Sangathan to get the applicant transferred who as per applicant's own case was a simple supporter of the complainant-who preferred this complaint against the then Principal of Kendriya Vidyalaya, Mathura. It is also a factor to be noticed that the applicant is continuing there at Mathura for the last 16 years and holding a transferable post, he cannot expect to remain for all the times to come or till he pleases to be there. He will have to observe the terms and conditions of the service and will have to follow the orders out of service exigencies. The facts in Sadhna Chowdhari's case are different to that of the applicant, therefore, the decision in that case is not applicable in the present matter.

7. For the above, I do not find any good reason to grant any of the relief sought for in the O.A. and the O.A. is dismissed accordingly. No order as to costs.

S. C. N. Aggarwal

Member (J)

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