

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD.

Allahabad This The 26<sup>th</sup> Day of May, 2000.

Original Application No. 832 of 1999

CORAM :

Hon'ble Mr. S. Biswas, A.M.

Smt. Sadhana Chaudhary,  
Post Graduate Teacher (History)  
at present posted in Kendriya Vidyalaya  
Mathura Cantt. resident of 87, Krishnapuri,  
District-Mathura

..... Applicant

(By adv. Shri Jai Singh)

Versus

1. The Commissioner, Kendriya Vidyalaya, Sangathan  
(Head Quarter), Shaheed Jeet Singh Marg, 18,  
Institutional Area, New Delhi.
2. Deputy Commissioner (Admn.), Kendriya Vidyalaya  
Sangathan, (Head Quarter), Shaheed Jeet Singh Marge,  
18, Institutional Area, New Delhi.
3. Principal, Kendriya Vidyalaya, Mathura.
4. Bhagwan Singh Rawat, Ex-Principal, Kendriya  
Vidyalaya, Mathura Cantt. at present posted  
at Kendriya Vidyalaya, Rewari, Harayana

..... Respondents

(By adv. Shri V.K. Singh)

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ORDER

1. The applicant a Post Graduate teacher at Kendriya Vidyalaya Mathura Cantt. seeks that her transfer order dated 24.06.99, passed by Respondent No. 2 along with the relieving order dated 26.06.99 be quashed as malafide and punitive.

2. She obtained a specific interim order dated 25.08.99 from the Hon'ble High Court permitting her to continue to function as a Post Graduate Teacher at Mathura Cantt Kendriya Vidyalaya till disposal of her ~~CA~~ before C.A.T. Allahabad. An S.L.P. was filed against ~~He's~~ <sup>He's</sup> interim order before Hon'ble Supreme Court The S.L.P. ~~has~~ <sup>has</sup> been dismissed in the case on 23.09.99.

3. Heard the rival party counsels. Certain undisputed facts, which have emerged in the case are as under.

4. The applicant a lady teacher at Mathura Cantt Kendriya Vidyalaya was statedly transferred to upper Shillong vide the impugned order dated 24.06.99 in public interest. Following certain allegation against her from different corners, connecting here with another P.R.T. teacher by the name R.P. Singh in some untoward relationship going on in the campus. The said Shri R.P. Singh was similarly transferred and moved a petition against it before (Civil Miscl. Writ No. 50051 of 99) to vindicate his case. Soon after her order of transfer she was also relieved, she applied for Transfer T.A. advance on 29.06.99 which was paid on 02.07.99. It was therefore likely to be construed that the applicant had gracefully accepted

S. P.



the order of transfer. The post held by ~~him~~ is admittedly a transferable post and as per the Sangathan's educational code the teaching and non-teaching staff are liable to be transferred to any part of the country. The <sup>re</sup>levant code states "49 K : The employees of Kendriya Vidyalaya Sangathana will be liable to be transferred anywhere in India." The institute has further published certain guidelines, an amended version of them were placed before this Tribunal. The guidelines were also provided not to give any right as such. These were by and large recommendatory. Transfers are an incident of service. Administrative transfers done in reasonable administrative exigencies are unassailable so long no transfer rules/norms are provenly violated or there is any malafide. By and large this is also the stand of the respondents in the case. ~~But none of~~

5. The applicant has projected her case as one of harrassment by Respondent No. 4, one Shri Bhagwan Singh Rawat, ex-principal Kendriya Vidyalaya Mathura Cantt. Who during her tenure used to abuse and harrass the applicant in questionable manner-for which she made several representations to the Kendriya Vidyalaya authorities - These representations are dated 16.12.98, one undated and 11.01.99. In the last application she inter alia prayed for the transfer of the then principal out of Mathura. She requested for an inquiry thereafter. It is her belief that these compulsions of her to safeguard ~~of~~ her prestige and dignity in the face of untoward behaviour of Respondent No. 4 who happened to be her harrassing <sup>boss</sup> ~~boss~~, also,

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that her transfer has been ordered by the K.V. authorities on the recommendation of the said very principal and she has been thrown out to a station which is not less than 1500 K.M. away from her present station at Mathura. She has projected this as a case of vindictiveness on the part of the Kendriya Vidyalaya authorities, who seemingly have not applied their mind to the facts that she made the complaint against ex-principal who on inquiry, was found at fault and transferred to Rewari.

It therefore follows that, her subsequent transfer was made due to malafide in order to punish her.

If there was anything <sup>again</sup> ~~apart~~ <sup>52</sup> her she would have been proceeded against, but when her complaint was found correct and the Respondent No. 4 was required to be transferred, in the same stroke, the authorities decision to transfer the innocent complaint <sup>under</sup> harrassment by Respondent No. 4 was punitive and malafide. This was a clear case of non-application of mind on the part of the transferring authority, <sup>who</sup> took no notice of the circumstances under which a lady teacher is compelled to make representation against the over ~~top~~ <sup>correct</sup> of the principal and after finding the complaint, if Respondent No. 4 was in fact transferred, <sup>there</sup> was no ground to uproot a lady teacher by a vindictive order of transfer. ----- as this one was.

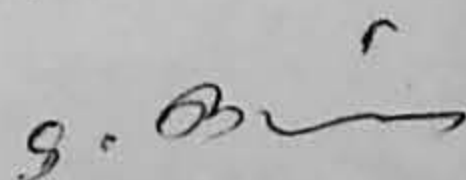
6. The applicant has further projected her predicament by citing that she, due to her irreparable strained relations with her husband ~~and the~~ <sup>5 B</sup> in token

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who maltreated and manhandled her repeatedly, has been compelled to file a suit of divorce 38/96 which is pending before Civil Judge Mathura. If she is transferred her social and <sup>legal</sup> ~~national~~ right would suffer. The transfer has been allegedly ~~or~~ <sup>by - 5 m</sup> on chastrated in order to compound her misery, as she is living single with two school going children.

7. Having gone through the submission, it is evident that there were certain complaints against her, all of which have not even after inquiry led to a disciplinary case. She has been picked up for a public interest transfer for administrative reason. <sup>SM</sup> ~~Suppose~~ <sup>SM</sup> transfer on administrative reasons are to be made ~~after~~ <sup>after</sup> "August" as per guidelines." The authorities could not in their articulated haste wait till that period - A single lady when transferred to a farflung station under the circumstances of her making certain allegation <sup>against</sup> ~~about~~ her boss for harrassment, does give rise to <sup>doubt</sup> ~~serious~~ <sup>serious</sup> ~~clench~~ about administrative reasonableness ~~on~~ the question of exigency. Her complaint <sup>to</sup> Board <sup>to</sup> ~~led~~ to the transfer of the ex-Principal who allegedly misbehaved with a lady teacher is not being denied - It therefore does not follow from the totality of the incident that there was an administrative exigency to transfer her in a hurry out of turn. It is not the case of the respondent that her transfer was over due, as they have not indicated as yet the period of the applicant's posting ~~at~~ Mathura Cantt.

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8. A hard look at the transfer guide lines show that a lady teacher when transferred on <sup>promotion she</sup> has to be accommodated ~~at~~ a distance not beyond two districts. How could <sup>the</sup> ~~treat~~ kind of mercy and compassion <sup>be</sup> drying in case of other types of transfer? This transfer is in my view far from any reasonable administrative exigency - nor it was administered with circumspection of the case.

9. Drawal of advance is incidental to relief, The argument that she had accepted the transfer by drawal of advance T.T.A. would hold good had she not been releived. The out come of her O.A. could not be foreseen in as much <sup>as</sup> she could not have ~~a been~~ psychologically reassured after she found her order of transfer, inspite of her <sup>representation</sup> ~~representative capacity~~ Respondent No. 4 was not disputed.

*S. B. Rao*  
10. I do not see so much importance of this stage ought to be given to the ~~understanding~~ complaint against than, which the authorities are free to book into service no action is extemplated or there, the transfer has appeared as a substitute for formal disciplinary action. *S. B. Rao*

11. In view of the facts and circumstances of the case, O.A. is allowed and the impugned transfer order dated 24.06.99 along with the releiving order dated 26.06.99 is quashed. *S. B. Rao*



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With consequential relief and regularisation of  
leave as per rules. She would however deposit  
the advance with 11% interest as per FR/SR  
or K.V. House keeping rules on the *matter*

*S. Davis*  
A.M.

/h.k./