

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

* * *

Allahabad : Dated this 11th day of January, 2000

Original Application no.874 of 1999

Distt. Gautambuddh Nagar

CORAM:-

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

Brijesh Bhati,
S/o Sri Rameshwar Singh Bhati,
Assistant Teacher, Kendriya Vidyalaya,
Sector 24, NOIDA, District Ghaziabad.

(Sri D.P. Singh/S.A. Gilani, Advocates)

. Applicant

Versus

1. Union of India through Secretary
Ministry of Human Resource Development,
Government of India, New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheedjeet Singh Marg,
New Delhi.
3. Principal, Kendriya Vidyalaya Sector 24,
NOIDA, District Gautambuddh Nagar.

(Sri VK Singh, Advocate)

. Respondents

ORDER

The applicant is under order of transfer by the order dated 23-7-1999 to Bhuj (Gujrat). This order has been impugned on two grounds, namely, it was issued when the order of Election Commission prohibiting transfer was already in circulation. However, this point was made at belated stage. Secondly, the applicant was transferred and posted at Noida Kendriya Vidyalaya on the ground of illness of his wife and her treatment, which is available in Delhi.

2. The respondents have contended that no malafide or violation of any rules is committed in this case. There are ^{unpleen} ~~plenty~~ number of cases which support routine and administrative transfers. These are not to be interfered except on malafide and violation of Rules of transfers.

S. Biswas

I have considered these points made by the respondents. It is also seen that an interim order was granted staying the transfer of the applicant by the Hon'ble Tribunal dated 6-8-1999. It was ordered that the transfer dated 23-7-1999 was issued by the respondent no.2 in violation of the restriction of the Election Commission of India vide order dated 12-7-1999. It was submitted that the teachers were connected with the election duties. Therefore, the transfer order dated 23-7-1999 was repugnant to the order of the Election Commission dated 1-12-1999 and the prayer for interim relief was allowed and the order was stayed.

3. Meanwhile, it was brought to my notice that the applicant was already relieved of his duties and no violation of Rules of election duties were committed as the matter was taken up with the District Magistrate at appropriate time and necessary directions were sought. The applicant himself managed to get election duties entrusted on him and it is confirmed that he is still not paid salary after he was relieved nor he could be taken on duty.

4. Having considered the points, I find that the applicant is having a job which is transferable as per Rul 49-K according to which employees of Kendriya Vidyalaya Sangathan will be liable to be transferred any where in India. Transfer of the applicant is accordingly as per Rules. It is also a fact that he was brought to NCIDA on medical grounds. In paragraph no.16 of the counter affidavit the respondents have submitted that the petitioner was transferred from Bhatinda to Kendriya Vidyalaya, NCIDA vide order dated 19-6-1997. Thus, the petitioner has completed more than three years at NCIDA and the present transfer order has been passed in public interest and exigency of service.

S. B. Misra

5. Scrutiny of the record shows that at Page 7, Para 19, of the counter affidavit, similar averments have been made stating that the petitioner after joining at JOIDA in 1996 did not apply for admission of children. Since the order of relieving from Bhatinda is dated 26-6-1997, he could not have joined at NUIDA before that.

6. As per this formal position on the date of his present transfer dated 23-7-1999, he had not completed three years as indicated in the counter affidavit. It is evident from this averment in the counter affidavit, para 16, Page 5 that the minimum period for posting in a place is three years, which is normal established practice. However, this normal established practice was not adhered to in the present case. The transfer order, dated 23-7-1999, is, therefore, vitiated by non-observance of the standard practice and norms. The order is, therefore, stayed upto 23-7-2000 with consequential relief to the applicant. The applicant may be relieved from the present ^{post at Noida} on or after 23-7-2000. *The transfer order stands modified to the above extent.*

7. Regarding Election Commission orders, since the period is over and the applicant had ~~not~~ done election duties, no orders are required to be issued on the score.

8. The OA is disposed of with the above direction with no order as to costs.

S. B. *Bansal*
Member (A)

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Rev 1w
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ORA 874/99

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Filed on 27-3-2w.

O.A. was disclosed on 27-1-2w by the Bench
of Hon Mr S. Biswas, Jm.
Submitted for orders
through under circulation.

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20/4/2w

S.O. (1) Sph 20/4/2000.

Revised afbl.
Time barred.
No fresh & reviewable
materials are brought
or present.
Revised afbl. (revised)
S. Biswas