

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 11 of 2000

alongwith

Original Application No.1440 of 1999

Original Application No.1515 of 1999

Original Application No.1516 of 1999

Original Application No.1519 of 1999

Original Application No.1520 of 1999

Original Application No.1521 of 1999

Allahabad this the Third day of October, 2000

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

O.A.No.11 of 2000

Ram Pyara Tripathi, S/o Tarkeshwar Tripathi,
B/o Quarter No.3-B-256, Vidyut Vihar, Shakti
Nagar, U.P.

By Advocates Shri A. Tripathi
Shri B. Ram

Versus

1. Union of India through the Secretary,
Ministry of Human Resource & Development,
(Department of Education, Government of
India, New Delhi.
2. Commissioner, Kendriya Vidyalay Sangathan,
18 Institutional Area, Shaheed Jeet Singh
Marg, New Delhi-110016.
3. The Assistant Commissioner, Kendriya Vid-
yalaya Sangathan, Patna Region, Vijai Nagar,
Rukumpura, Baily Road, B.V. College, Patna
800014.

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4. Principal, Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra, U.P.
5. Principal, Kendriya Vidyalaya, Tengavalley, Assam.

Respondents

By Advocate Shri V.K. Singh

O.A.No. 1440 of 1999

Amrendra Kumar Singh, S/o Shri Ram Lekhan Prasad Singh, R/o I-AH-261/263, Vidyut Vihar, NTPC, Shaktinagar, Sonbhadra, U.P.

Applicant

By Advocates Shri Avnish Tripathi.
Shri Bechu Ram

Versus

1. Union of India, through the Secretary, Ministry of Human Resource & Development, (Dept. of Education), Government of India, New Delhi.
2. Commissioner, Kendriya Vidyalay Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Vijai Nagar, Rukumpura, Bailey Road, B.V. College, Patna-800014.
4. Principal, Kendriya Vidyalaya, NTPC, Shaktinagar, Sonbhadra, U.P.
5. Principal, Kendriya Vidyalaya, Masimpur, District Silchar, Assam.

Respondents

By Advocate Shri V.K. Singh

.....pg.3/-

See

:: 3 ::

O.A.NO. 1515 of 1999

Swami Nath Ram, Son of Sri Ram Chandra Ram,
resident of III-B-166, Vidyut Vihar, N.T.P.C.
Shaktinagar, Sonbhadra(U.P.)permanent resident
of Village Kope, Post Kumam via Rasra, district
Ballia(U.P.), at present posted as PRT, Kendriya
Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra.

Applicant

By Advocates Shri B.B. Sirohi
Shri S.C. Dwivedi,
Shri A.N. Ambasta

Versus

1. Union of India, through the Secretary
Ministry of Human Resource and Development
(Department of Education), Govt.
of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya
Sangathan, 18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi-
110016
3. The Deputy Commissioner(Academic), Kendriya
Vidyalaya Sangathan, 18, Institutional
Area, Shaheed Jeet Singh Marg, New Delhi-
110016.
4. The Assistant Commissioner, Kendriya
Vidyalaya Sangathan, Patna Region, Vijay
Nagar, Rukunpura, Bailley Road, B.V.College,
Patna-80004.
5. Assistant Commissioner, Kendriya Vidyalaya,
Sangathan, Guwahati Region, Guwahati(Assam).
6. The Principal, Kendriya Vidyalaya,
N.T.P.C., Shaktinagar, Sonbhadra(U.P.)
7. The Principal, Kendriya Vidyalaya, Tura
Meghalaya.
8. Chairman, Vidyalaya Management Committee
Kendriya Vidyalaya, N.T.P.C., Shaktinagar,
Sonbhadra.

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99. Sri V.K. Mishra, PRT, Kendriya Vidyalaya, N.T.P.C. Shaktinagar, Sonbhadra (U.P.)

Respondents

By Advocates Shri V.K. Singh

O.A.No.1516 of 1999

Raj Dularey, Son of Late Sri Laljeet, resident of I-AH-14/16, Vidyut Vihar, N.T.P.C., Shaktinagar, Sonbhadra(U.P.), permanent resident of village and post Piwari, district Etah(U.P.) at present posted as T.G.T.(English) at Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra(U.P.).

By Advocate Shri B.B. Sirohi,
Shri S.C. Dwivedi,
Shri A.N. Ambasta

Versus

1. Union of India through the Secretary, Ministry of Human Resource and Development (Department of Education), Govt. of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Deputy Commissioner(Academic), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Vijay Nagar, Rukwapura, Bailley Road, B.V. College, Patna-800014.
5. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Guwahati (Assam).
6. The Principal, Kendriya Vidyalaya, N.T.P.C. Shaktinagar, Sonbhadra(U.P.).
- 6.7. The Principal, Kendriya Vidyalaya no.2, Tezpur (Assam). *Q-*

8. The Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra.
9. Sri K.K. Pandey, T.G.T. (English), Kendriya Vidyalaya, Bhurkunda, Hazaribagh, Bihar.

Respondents

By Advocates Shri V.K. Singh
Shri S.C. Mishra

O.A.No.1519 of 1999

Prabhu Nath (P. Nath), Son of Late Sri Vishun Ram, resident of 6-13-32, Vidyut Vihar, N.T.P.C. Shaktinagar, Sonbhadra (U.P.), permanent resident of village Chhittauna, post Kerakat, district Jaunpur (U.P.) at present posted as T.G.T. (English) at Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra (U.P.)

By Advocates Shri S.C. Dwivedi
Shri A.N. Ambasta

Versus

1. Union of India through its Secretary, Ministry of Human Resource Development (Department of Education), Govt. of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Deputy Commissioner (Academic), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, VijayNagar, Rukumpura, Bailley Road, B.V. College, Patna.
5. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Guwahati (Assam).

560

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6. The Principal, Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra(U.P.)
7. The Principal, Kendriya Vidyalaya, Miss-ammari No.1, Guwahati Region, Assam.
8. Chairman, Vidyalaya Management Committee Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra(U.P.).
9. Sri S.C. Dwivedi, T.G.T.(English), Kendriya Vidyalaya, Dakra, Bihar.

Respondents

By Advocate Shri V.K. Singh

O.A.No. 1520 of 1999

Prem Chandra Tiwari(P.C. Tiwari), Son of Late Sri Ram Janak Tiwari, R/o III-B-216, Vidyut Vihar, Shaktinagar, Sonbhadra(U.P.), permanent resident of Village Vinayaki, post Dariyapur, Newada, district Azamgarh, at present posted as T.G.T.(PCM) in Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra(U.P.).

Applicant

By Advocate Shri B.B. Sirohi
Shri S.C. Dwivedi,
Shri A.N. Ambasta

Versus

1. Union of India through the Secretary, Ministry of Human Resource Development (Department of Education), Govt. of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Deputy Commissioner(Academic), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.

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4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Vijay Nagar, Rukunpura, Bailley Road, B.V. College, Patna.
5. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Silchar Region, Silchar (Assam).
6. The Principal, Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra (U.P.).
7. The Principal, Kendriya Vidyalaya, Dinjan Cantt., Dibrugarh (Assam).
8. Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, N.T.P.C., Shaktinagar, Sonbhadra.

Respondents

By Advocate Shri V.K. Singh

O.A. No. 1521 of 1999

Ravindra Deo Pandey, Son of Shri Shiv Pujan Pandey, resident of Quarter No. III-B-222, Vidyut Vihar, N.T.P.C., Shaktinagar, Sonbhadra (U.P.)

Applicant

By Advocates Shri Rakesh Verma
Shri S.C. Dwivedi
Shri A.N. Ambasta

Versus

1. Union of India, through the Secretary, Ministry of Human Resource and Development (Department of Education), Govt. of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Deputy Commissioner (Academic), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.

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4. The Assistant Commissioner, Kendriya

Vidyalaya Sangathan, Patna Region,
Vijay Nagar, Rukwacapura, Baily Road,
B.V. College, Patna-800014.

5. Assistant Commissioner, Kendriya Vidya-

laya Sangathan, Guwahati Region, Guwahati
(Assam).

6. The Principal, Kendriya Vidyalaya, N.T.P.C.
Shakti Nagar, Sonbhadra (U.P.).

7. The Principal, Kendriya Vidyalaya, Lokra,
Sonitpur (Assam).

8. Chairman, Vidyalaya Management Committee,
Kendriya Vidyalaya, N.T.P.C., Shaktinagar,
District Sonbhadra.

Respondents

By Advocate Shri V.K. Singh

O R D E R

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

O.A.No.11 of 2000, O.A.No.1440 of 1999

O.A.No.1515 of 1999, O.A.No.1516 of 1999, O.A.No.
1519 of 1999, O.A.No. 1520 of 1999 and O.A.No.1521
of 1999 have been directed by the applicants in
respective cases against their transfers from
Shakti Nagar to different stations and have prayed
to quash the same. The transfer order in O.A.No.
1515 of 1999 is dated 01.10.1999 and the transfer
order in all other cases is the same, which is
dated 11.10.1999. The grounds taken to assail
these transfer orders are almost the same, there-
fore, all these cases are being disposed through
this one order.

2. Vide order dated 11.10.1999, the
applicant of O.A.No.11 of 2000, Shri Ram Pyara

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Tripathi has been transferred to Tengavalley in O.A.No.1440 of 1999-the applicant Shri A.K. Singh has been transferred to Masimpur, in O.A. No. 1516 of 1999, Shri Raj Dulare has been transferred to Vidyalaya no.2 Tezpur, in O.A.No.1519 of 1999 Shri Prabhu Nath has been transferred to Missamari no.1, in O.A.No.1520 of 1999, the applicant Shri P.C. Tewari has been transferred to Dinjan Cantt., in O.A. No.1521 of 1999, Shri R.D. Pandey has been transferred to Lokra, whereas in O.A.No.1515 of 1999, Shri Swami Nath has been transferred to Tura vide order dated 01.10.1999. All these applicants are ~~in~~ teaching staff of Kendriya Vidyalaya and have been transferred from one Vidyalaya to other Vidyalaya. The applicants have impugned the transfer orders mainly on the ground that they have been discriminated and the other members of the staff who are working at a same station for a longer period of time, have not been touched and the applicants have been disturbed. It has also been mentioned that the relevant instructions and rules in this regard have not been complied with. Except Shri Raj Dularey-applicant in O.A.no.1516 of 1999 and R.B. Pandey-applicant in O.A.No.1521 of 1999 all the applicants have already joined at the place of their posting in compliance of impugned transfer orders.

3. The respondents have contested the case and filed the counter-reply, with the mention

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that the transfer is incident of service and shall not ordinarily be interfered in judicial review. It has also been mentioned that all the applicants have already been relieved and paid advance T.A. on their own request. It has also been pleaded on behalf of the respondents that the next incumbent to the respective posts have already joined and take over the charge in compliance with transfer orders.

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

5. It has been submitted on behalf of the applicant that as per terms of their service, they should have been posted within their native state, but as per ~~pimpugned~~ order, they have been transferred to other states. In reply to this contention, Shri V.K. Singh, learned counsel for the respondents mentioned that this provision is qualified by the word 'as far as possible' and therefore, it is not an absolute condition, whereas under the Education Code, as applicable to the applicants, they can be transferred and posted to any place ~~of~~ all over India.

6. It has been pointed out by the applicants that they have been discriminated against ^{not} those who have ~~been~~ transferred from their present place of posting inspite of having longer term of stay there. It has been submitted from the side

See pg.11/-

of the respondents that the allegation is false and also that the applicants have not mentioned any specific ^{instance} ~~incident~~ and, therefore, this general remark cannot be of any help to ~~them~~ him. It has also been mentioned that the seniority at the station may, no doubt, be a consideration at the time of transfer and posting, but the same can be deviated in view of individual circumstances.

7. It has also been argued on behalf of the applicants that they have been transferred in public interest, but there is no mention as to what public interest is involved in the matter and, therefore, the order is bad in law. In support of this contention, the law laid down in Ram Aadhar Pandey Vs. State of U.P. 1993 Supp. (3) S.C.C.35, has been referred. On perusal of referred case law, it is found that in the matter before their Lordships in R.A. Pandey's case, the petitioner was transferred to an ex-cadre post, which is not the position in the present matter and therefore, the referred case law is not of any help to these applicants.

8. Though not pleaded, but argued that the transfer orders dated 11.10.1999 and 01.10.1999, have been passed during the period when there was a ban on transfer under Notification from Election Commission of India and on this ground also, the transfer orders deserve to be quashed. Keeping in

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view this submission, the relevant dates and relevant facts in the present matter were examined and it is found that the implementation of the order was to be made beyond the limits of dates as have been mentioned in the Notification issued by Election Commission and, therefore, this ground is also not effective.

9. Learned counsel for the applicant also referred the guide lines issued from time to time in respect of transfers of the employees and have pressed that these guide lines have not been complied with while passing the impugned transfer order. Shri V.K. Singh, learned counsel for the respondents submits that there is no infringement of any guide line. Moreover, there is no absolute provision in these guide lines, but they are only suggestive in nature and, therefore, the same cannot be a ground to interfere with the transfer orders.

10. In O.A. no.1440/99, it has been pointed out on behalf of the applicant-Shri A.K. Singh that the impugned transfer order is outcome of a complaint and therefore, punitive in nature and has been passed without giving an opportunity of being heard to the applicants. In reply to this contention, Shri V.K. Singh, learned counsel for the respondents submits that the transfer order is not outcome of any complaint and the same is not punitive in nature. It has been passed in

:: 13 ::

routine and the apprehension of the applicants is false that the same has been passed because of any complaint against him.

11. In O.A.No.1515/99, it has been submitted on behalf of Shri Swami Nath Ram that the transfer order has been passed in the mid session, which is against the guidelines in this regard. In view of the fact that he has already joined in compliance of transfer order, this plea does not remain effective any more.

12. The applicants have also mentioned the compassionate ground like personal illness, illness of some family member and education of their children, but no document has been filed in support of their contention and, therefore, it becomes a very weak submission which further loses its effectiveness when they have already joined at the place to which they have been transferred.

13. From the above, it is quite evident that in most of the cases, the impugned transfer orders have already been implemented. Most of the applicants have joined at the place to which they have been transferred and the next incumbent to the post, they vacated, have also joined and also there is no allegation of malafide or non-

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:: 14 ::

compliance of statutory provision. I do not find any good ground to interfere in the impugned transfer order. I am fortified in arriving at this conclusion from the law handed down in A.I.R. 1993 S.C.2444
U.O.I. Vs. S.L. Abbas and A.I.R.1995 S.C.1056 State
of M.P. Vs. S.S. Kaurav and Others.

14. In view of the above position, the O.As are dismissed being devoid of merit. No order as to costs.

Seal
Jm.