

(Open Court) 7

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 832 of 2000.

Allahabad this the 04th day of April, 2002.

Hon'ble Mrs. Meera Chhibber, Member- J.

Smt. Sudarasan Aneja, P.G.T (English),
Jawahar Navodaya Vidyalaya, Chaurasi,
Distt. Bareilly.

.....Applicant

Counsel for the applicant :- Sri A. Jauhari

V E R S U S

1. Union of India through the Secretary, M/o Human Resource Development (H.R.D), New Delhi.
2. Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, B-10, Sector- C, Aliganj, Lucknow.
3. Assistant Director, Navodaya Vidyalaya Samiti, Head Quarter, New Delhi.
4. Principal, Jawahar Navodaya Vidyalaya, Chaurasi, Distt. Bareilly.

.....Respondents

Counsel for the respondents :- Sri V. Swaroop

O R D E R (oral)

(By Hon'ble Mrs. Meera Chhibber, Member- J.)

This OA under section 19 of the Administrative Tribunals Act, 1985, has been filed against the transfer order dated 27.06.2000 by which she was transferred from Bareilly to Aligarh after granting *recd 18*

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promotion as Vice-Principal to the Jawahar Navodaya Vidyalaya (J.N.V), Aligarh. In the transefer order, it was clearly mentioned that all the above named P.G.Ts may join their respective places latest by 31.07.2000 failing which promotion order will be withdrawn and they will be debarred from consideration for promotion for a period of one year. . The applicnat's name appears at Sl. No. 5 in this order. The applicant was relieved by order dated 06.07.2000 whereby one Sri B.K. Roy was promoted and joined in her place at Bareilly and thereafter the respondents issued another order on 08.09.2000 whereby the promotion granted to the applicant was withdrawn as she had not joined at the place of her posting by 31.07.2000 and she was debarred from promotion for a period of one year from 01.09.2000. The applicant during the pendency of the OA amended her OA to challenge the subsequent order dated 08.09.2000 as well. The grievance of the applicant is that she had just two years of service left at the time when she was transferred. Therefore, she should have been accommodated at Bareilly itself.

2. The respondents on the other hand have contested the OA and have stated that this OA is not maintainable as the applicant was, as per the applicant's husband's own application given to the respondents, not even available in India till 27.07.2000, therefore, the OA cannot be said to have been filed by her or verified by her in India. The learned counsel has drawn my attention to the application written by Sri Ram Jas Aneja, husband of Smt. Sudarasan Aneja, P.G.T, Chaubari, Distt. Bareilly wherein he ~~has~~ in clear words has stated that "It is certain that she cannot reach India on or before 31.07.2000 as such it will not be possible for her to

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report before 31.07.2000. The matter regarding her promotion as Vice-Principal may kindly be shelved till her arrival and she may not be punished for her unfortunate absence". In the same letter, it was further mentioned that she is expected to come India by end of August, 2000. In fact the applicant has annexed the document dated 14.08.2000 requesting the Principal, J.N.V, Bareilly to allow her to resume her duties which clearly shows that prior to 14.08.2000, the applicant was not in India otherwise she would have resumed her duties the day she ~~has~~ ^{raised} reached in India. The point ~~placed~~ ^{raised} by the learned counsel for the respondents is relevant, In view of the fact that the verification has been done at Allahabad as shown at page-7 of the OA. I would ~~however~~ not like to throw this OA ~~on~~ this ground alone as the applicant can always sign and verify the O.A even out-side India but the same would be required to be attested by the High Commission or she would give authority to some one else to file OA in her favour since at the relevant time she was out of India. However, on merits, the applicant has not been able to make out any case for interference by this Tribunal. The learned counsel for the applicant has submitted that she was given her option to accept the promotion by 31.07.2000 or remains at Bareilly which is absolutely wrong as the order is very clear that ~~the~~ every teacher in the list must ~~be~~ join ^{on} latest by 31.07.2000 at the places of their posting and it is further made clear that if they did not join by that date, they will be debarred from promotion for a period of one year. Admittedly the applicant could not join the place of her posting by 31.07.2000, the respondents issued a subsequent order withdrawing the promotion and debarring her from

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promotion for a period of one year from 01.09.2000.

The learned counsel has further submitted that since there is vacancy still at Bareilly, the respondents should have accommodated the applicant at Bareilly.

The law on this point has already been well settled by the Hon'ble Supreme Court who have held in number of cases that transfer is ^{an} the exigency of service, who is to be posted where and how the service of the employee can be utilised is best to be decided by the department and not by the courts. It has been further held that the Tribunals should ^{not} interfere in routine matters of transfer.

I see no reason why the Tribunal should interfere in the instant case as this was a transfer on promotion. Therefore, the OA is dismissed. If the applicant is aggrieved by her subsequent posting to Sidharth Nagar, she could always make representation to the respondents but admittedly the applicant has not ^{even} given any representation to the respondents as she thought since her OA is still pending, therefore, she need not approach the respondents. It goes without saying that the respondents have to transfer the staff for running their schools effectively and for making necessary arrangements for posting the staff at places which cannot be kept vacant for too long. Even otherwise since the place at Bareilly, where the applicant was earlier working, has already been occupied by one Sri B.K. Roy, the applicant had to be posted to some other place. Accordingly she was directed to join at Sidharth Nagar. It would have been better if she had joined at Sidharth Nagar and then made representation to the respondents for accommodating her at Bareilly if there is vacancy available in some other school at Bareilly.

Since the applicant has not even made any representation, no direction can be given to the respondents. However,

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it will be open to the applicant to join at Sidharth Nagar and then give her representation to the respondents making a request to retain her at Bareilly by giving some cogent reasons. I am sure, if she gives a representation, the respondents will consider the same and pass a reasoned and speaking order thereon. The O.A is accordingly dismissed with above observations.

3. There shall be no order as to costs.



Member- J.

/Anand/