

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 27th day of June 2002.

Original Application no. 734 of 2002.

Hon'ble Mr. S. Dayal, Member (A).

Smt. Sudarshan Aneja,  
P.G.T. (English), Jawahar Navodaya Vidyalaya Chaubari,  
Distt. Bareilly.

... Applicant

By Adv : Sri B.D. Mandhyan  
Sri S. Mandhyan

Versus

1. Union of India through Secretary,  
M/O Human Resources and Development  
(H.R.D.), New Delhi.
2. Deputy Director, Navodaya Vidyalaya Samiti,  
Regional Office B-10, Sector C, Aliganj,  
Lucknow.
3. Deputy Director (Personnel),  
Navodaya Vidyalaya Samiti,  
H Qrs, Kailash Colony, New Delhi.
4. Principal, Jawahar Navodaya Vidyalaya, Chaubar,  
Distt. Bareilly.

... Respondents

By Adv : Sri V. Swaroop.

ORDER

Hon'ble Mr. S. Dayal, Member (A).

This OA has been filed for setting aside the order dated 4/5.6.2002 passed by respondent no. 2. A direction has also <sup>been</sup> sought for quashing the order dated 27.6.2000 in so far as it transfers the applicant to Aligarh. The applicant <sup>has</sup> also seeks direction to the

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respondents not to give effect <sup>to</sup> the order dated 4/5.6.2002 by which her representation has been rejected, order dated 5/9.10.2000 by which she has been transferred to Bansi, Sidharath Nagar and order dated 27.6.2000, by which she was transferred Jawahar Navodaya Vidyalaya (in short JNV) Chaubari, Bareilly to JNV, Aligarh.

2. The applicant has claimed that she was promoted to the post of Vice-Principal in the pay scale of Rs. 7000-250-12000 and was posted to Aligarh. The applicant was on Earned Leave <sup>at</sup> that time and was out side the country, therefore, her husband moved an application before the Principal informing him that the applicant would come back on or before 31.7.2000. Since the applicant did not receive any intimation about the request made by her husband, she moved OA 832 of 2000 on 20.7.2000, claiming that the order dated 27.6.2000 has not been implemented and the applicant has not been relieved and seeking stay on that order. The applicant claimed to have given her joining <sup>report</sup> on 14.8.2000 at JNV, Chaubari, Bareilly. The applicant vide order dated 8.9.2000 was informed about withdrawal <sup>of</sup> of promotion for a period of one year from 1.9.2000. She claimed that she was not informed about the extention to joining time till 31.7.2000. It is claimed that the respondents have passed another order on 5/9.10.2000 directing the applicant to join at JNV Bansi, Sidharath Nagar. The applicant has claimed that she should have been allowed to join at Chaubari, Bareilly because her promotion had been cancelled. It is claimed that such an order was arbitrary in nature. The applicant has ~~been~~ claimed that the post of Vice-Principal



was lying vacant on which she could have been accommodated. The applicants claims to have filed writ petition no. 20514 of 2002 in the High Court. The High Court vide order dated 20.5.2002 disposed of the writ petition with the direction to consider her representation bearing in mind particularly the fact that she will be retiring within an year.

3. I have heard Sri B.D. Mandhyan and Sri S. Mandhyan learned counsel<sup>✓</sup> for the applicant and Sri L.M. Singh brief holder of Sri V. Swaroop learned counsel for the respondents.

4. Learned counsel for the applicant contended that the applicant had filed representation pursuant to the order dated 20.5.2002 <sup>✓</sup> in WP no. 20514 of 2002. It is stated that the order dated 4/5.6.2002 is non speaking as it merely states that representation has been reconsidered<sup>✓</sup> sympathetically and that it was not possible to cancel the transfer order. It is contended that the applicant has given first representation and there is no question of reconsideration<sup>of representation given ✓</sup> for the first time.

5. I have considered the submission of learned counsel for the applicant. Learned counsel for the respondents on the other hand <sup>✓</sup> mentioned that the applicant was not even in India when the OA no. 832 of 2000 was filed and that such an OA could not have been entertained.

6. Since the representation has been filed in pursuance to the order of High Court, therefore, this issue has become irrelevant<sup>✓</sup>. Besides the order in OA 832 of 2000 refers to

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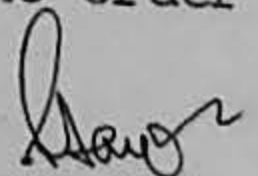
this issue and considering that the issue was only formal in nature did not throw out the OA on that basis alone.

7. As far as the challenge of the applicant to order dated 27.6.2000 is concerned<sup>✓</sup>, it was already agitated in OA 832 of 2000 and has been settled and raising this issue again is clearly barred by resjudicata. The order dated 5/9.10.2000 has also become stale<sup>✓</sup> as it was passed in the month of October 2000.

8. It leaves us only ~~that~~<sup>with</sup> order dated 4/5.6.2002 which is regarding rejection or the representation. I find from annexure 8 which has been referred in the impugned order dated 4/5.6.2002 that the applicant has agitated the issue of her transfer to JNV Chaubari to JNV Aligarh and had requested that her transfer order<sup>✓</sup> to continue ~~at~~<sup>be cancelled and she may be allowed</sup> JNV, ~~Chaubari may be dropped and she could be continued in JNV~~<sup>✓</sup> Chaubari. The respondents in deciding the representation dated 4/5.6.2002 have ~~been~~<sup>✓</sup> stated that it was not possible to cancel the transfer order because the only post of PGT (English) at JNV Chaubari was already filled up and Shri B.K. Roy was working on the post on regular basis.

9. For the above, I find no reason to interfere with the order dated 4/5.6.2002. The applicant shows her willingness to join at Bansi, Sidharath Nagar in the first week of July 2002. If she reports at JNV Bansi, Sidharath Nagar in the first week of July, she shall be allowed by the respondents to join at JNV, Bansi, Sidharath Na-gar. With this stipulation the OA stands disposed of with no order as to costs.

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Member (A)