

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 28th April 2003.

QUORUM : HON. MRS. MEERA CHHIBBER, J.M.

O.A. No. 423 of 2003

Smt. Sushma Rani, aged about 31 years W/O Shri Om Prakash,
presently residing at Type II, Qr.No.252, CRPF Campus, Rampur.
.....

..... Applicant.

Counsel for applicant : Sri R. Verma.

Versus

1. Union of India through the Secretary, Ministry of Human
Resources and Development, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Indus-
trial Area, Shaheed Jeet Singh Marg, New Delhi.
3. The Principal, Kendriya Vidyalaya, situated within the
CRPF Campus, Rampur.....

..... Respondents.

Counsel for respondents : Sri N.P. Singh.

ORDER (ORAL)

BY HON. MRS. MEERA CHHIBBER, J.M.

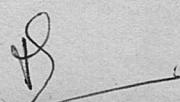
By this O.A., the applicant has sought the following
reliefs :-

"(i) To issue a writ, order or direction in the
nature of Mandamus directing the respondent No.
2 to consider and pass a reasoned and speaking
order on the representation of the petitioner
dated 26.10.2002 as well as 26.11.2002 and to
post her at Kendriya Vidyalaya, Alwar or any
other nearby place where the vacancy is
available.

(ii) To issue any other suitable writ, order or
direction in the facts and circumstances of the
case which this Hon'ble Tribunal may deem fit
and proper.

(iii) To award cost of the petition."

2. It is submitted by the applicant that she is
appointed as Teacher at Kendriya Vidyalaya, Shimla w.e.f.



22.12.1995 from where she was transferred to Kendriya Vidyalaya CRPF Campus, Rampur on 25.10.1999. Since October 1999 she had been continuing at Rampur even though her husband, lecturer in History at Government Arts College is posted at Alwar. Since she has delivered a baby on 7.3.2003 and already has another child aged 7 years, she was finding it difficult to cope up with the situation. Therefore, she gave an application for transfer to Alwar on the spouse ground on 26.10.2002 but since no reply was given to her, she gave another representation on 26.11.02 (Annexure A-3 & A-4) but till date respondents have neither decided her representations nor posted her at Alwar or some other nearby place in a vacant position. Therefore, finding no alternative, she had to file the present O.A. It is submitted by the applicant that as per policy of Govt. of India, Departments are expected to consider ^{the best} of posting husband and wife at the same station if possible but unfortunately the respondents have not even considered her request so far. It is not possible for her husband to cover a distance of 200 Kms. every day as the distance between Alwar and Rampur is around 400 Kms. Therefore, she is seeking a very genuine relief that if vacancy is available she should be posted to Alwar.

3. Counsel for the respondents, on the other hand, submitted that this O.A. is not maintainable in view of the judgment reported in 2001 Vol. III ATJ page 452 in the case of G. Muthuswami Vs. Divisional Personnel Officer, Palghat and others. It is submitted by the respondents that since there is no dispute between parties, the present O.A. is not maintainable and is liable to be dismissed.

4. I have heard both the counsel and perused the pleadings as well. Law on the question of transfer is well settled now and Hon'ble Supreme Court has repeatedly held that who is to be posted where is best to be left with the authority concern and they alone know how ~~the~~ best work can be taken out from an individual and where ~~the~~ requirement is.

48

It is also settled that court cannot ~~be~~ direct ~~to~~ the authorities to post a person to a particular place. Therefore, to that extent this O.A. cannot be ^{said to be} maintainable. However, Hon'ble Supreme Court has also held that whenever a person is aggrieved by the orders passed by the authorities or in case they have any other grievance against the authorities, they should move a representation to the authorities concerned so that they may consider the request and pass appropriate orders thereon. In the instant case it is seen that the applicant has already moved a representation followed by a reminder to the authorities concerned with the request to consider posting her either at Alwar or some nearby place wherever the vacancy is available which has neither been rejected by the respondents nor she has been given the transfer orders. Even though the yearly transfers have already been issued in April 2003 as submitted by the respondent's counsel. Applicant has submitted that she has delivered a baby in the month of March 2003 and is already having another child of about 7 years, I do feel that the request made by the applicant is a genuine request and in normal course when such a request is made, the respondents are atleast expected to apply their mind to the given facts of the case and then pass a reasoned order thereon. In the instant case, respondents have neither rejected the claim of applicant nor have given any reply to her. Therefore, it may be possible that her request is still under consideration. The relief sought by the applicant is to direct the respondents to decide her representation or to direct the respondents to post her at Kendriya Vidyalaya, Alwar or any other nearby place where the vacancy is available.

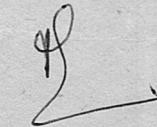
5. In the given circumstances, I feel that keeping in view the judgment given by Hon'ble Supreme Court in ^{Electricity} ~~State Factory~~ Board, the matter needs to be remitted back to the authorities concerned to apply their mind to the given facts

48

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of the case and to inform the applicant about the outcome of the same within a period of three months from the date of receipt of a copy of this order.

6. With the above direction, this O.A. is disposed of at the admission stage itself with no order as to costs.



J.M.

Asthana/