

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 706 OF 2003

ALLAHABAD THIS THE 04th DAY OF JULY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)  
HON'BLE MR. D. R. TIWARI, MEMBER (A)

R.S. Maurya,  
s/o Shri Mahadeo Maurya,  
presently posted as Principle,  
Kendriya Vidyalaya, C.O.D., Chheoki,  
Naini, Allahabad.

.....Applicant

(By Advocate : Shri K.P. Singh)

V E R S U S

1. Union of India through Secretary,  
Ministry of Human Resource and Development,  
Department of Education,  
Government of India,  
New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan,  
18, Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi.
3. Deputy Commissioner Personal,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi.
4. Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional office, Lucknow Region,  
Lucknow.

....Respondents

(By Advocate : Shri D.P. Singh)

O R D E R

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

By this O.A. applicant has challenged the order dated 14.06.2003 (Pg.13) whereby he has been posted to Udhampur No.2 from Chheoki, Allahabad. His name figures at serial No. 5 under the Lucknow region. In his place one Smt. Rajalaxmi



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was transferred from OF Bhusawal to Chheoki Allahabad. Her name figures at serial No.8 in Mumbai Region on the same page ~~at~~ 14.

2. It is submitted by the applicant that as per the policy of K.V.S., Principal of a school shall generally be retained at a station not exceeding 5 years. They are, however, liable to be transferred even before the completion of aforesaid period depending upon the organisational interest or administrative exigencies etc. (Para 4 page 28). It is submitted by the applicant that right from the date of his appointment i.e. 31.07.1973 applicant has always been obeying the transfer orders as and when issued from the department. He was promoted as a Principal on 26.11.1996 and was posted to a hard station in Tinsukiya i.e. in Assam. Applicant reported at the station and requested for being transferred to Lucknow Region but none the less he continued to perform his duties at Tinsukiya for about upto 4 years i.e. /30th May, 2000. Applicant was transferred from Tinsukiya to K.V., IIM Lucknow but the same was not given effect to and finally by a modified order dated 21.07.2000 he was transferred from Tinsukiya to ITI, Allahabad (Pg.21) within one and a half years i.e. 10.12.2001, Applicant was transferred from Naini Allahabad to COD Chheoki (Pg.23) and now by the impugned order dated 14.06.2003 he has once again been transferred from COD Chheoki to Udhampur No.2.

3. Counsel for the applicant has submitted that the frequent transfer from one school to the other would not enable the applicant to show his out put in school as by the time he is



able to have grip <sup>cover</sup> ~~of~~ the school and ~~he~~ could do something to improve the functioning of the school, he is posted out to some other school. He has also submitted that applicant was not the senior most Principal in Allahabad as Shri J.P. Yadav had joined as a Principal in Allahabad prior to the applicant i.e. in April 2000 but he has till date not been shifted from Allahabad while applicant is being shifted from one school to the other. He has also submitted that this is not a transfer due to some administrative exigency as it is a general order whereby as many as 87 persons have been transferred from one place to the other. Thus, there is no justification to shift him <sup>at short interval of</sup> ~~at such~~ <sup>and</sup> ~~caught~~ <sup>interference</sup> from one school to the other. Applicant's counsel has also submitted that applicant gave his representation against the said transfer order to the Commissioner of K.V.S. on 26.06.2003 (Pg.25) which has not been decided till date.

4. As far as working of the applicant is concerned, applicant has submitted that till the date he filed the O.A. applicant was working at Chheoki Allahabad and it was only as soon as he handed over the copy of the O.A. on the respondents' counsel on 03.07.2003, that respondents arbitrarily relieved the applicant by order dated 03.07.2003 itself, even though the principal who was to join in his place <sup>has</sup> ~~not~~ reported for duty at Chheoki so far. He has, thus, submitted that the order of transfer may be quashed and set aside <sup>and</sup> ~~as~~ respondents may be directed to allow the applicant to continue at the same station where he was working.



5. Respondent's counsel, on the other hand, has submitted that the transfer is incident of service and they can post any teacher or Principal at any time depending on the requirement of their work and administrative exigencies and Hon'ble Supreme Court has repeatedly been holding that courts should not interfere in the regular matters of transfer as it is only the department who knows where and how best the work from a particular officer can be taken. He has further submitted that since applicant has not alleged any malafide nor there is any violation of statutory rules, therefore no interference is called for in this matter. He has also submitted that since applicant has already been relieved, no order can be passed at this stage and they may be given time to file their reply on merits of the case, in case, it is so required. As far as the guidelines are concerned, Counsel for the respondents has submitted that tenure of 5 years is not mandatory in each and every case and ~~is~~ only the outer limit ~~and~~ respondents can always ~~be posted as~~ a Principal even before the expiry of 5 years. He has, thus, submitted that this O.A. needs no interference and the same may accordingly be dismissed.

6. We have heard both the counsel and perused the pleadings as well.

7. There is no doubt about it that transfer is an incidence of service and an employee can always be transferred from one place to the other and generally courts should not interfere in the matter of transfer, unless there is some malafides alleged against

the officers concerned or there is some violation of statutory rules or guidelines by the respondents. Yet in the instant case, we have seen that applicant has been transferred from one school <sup>B frequently</sup> to the other rather <sup>which is not a very healthy sign in as much</sup> as, it does not give full scope to the employee concerned to show his out put or to handle a seat effectively for the improvement of school in given circumstances. It is also seen that <sup>it becomes</sup> applicant has <sup>B not</sup> been avoiding transfer <sup>B even</sup> to difficult stations, because immediately before being posted to Allahabad, he has worked <sup>B re</sup> for a tenure <sup>at</sup> a hard station <sup>in</sup> Tinsukhiya i.e. in Assam for almost good 4 years. Now if he has been transferred frequently and he has already given a representation to the Commissioner of K.V.S., <sup>B expected</sup> it was <sup>accepted</sup> that <sup>that</sup> atleast his representation should have been decided by the authorities before taking any such <sup>B hasty</sup> action so as to relieve the applicant on 03.07.2003 unilaterally, <sup>Even</sup> in the absence when the principal who was posted against his post had not even reported at the same place. Infact, the way applicant has been relieved on 03.07.2003 shows little hasty step on the part of the respondents because as per the impugned <sup>B were</sup> order itself all the persons who <sup>are</sup> transferred by the impugned order were directed to report for duty at the new place of posting latest by 30.06.2003 and if applicant had not got himself relieved from the school and had already given his representation, we feel there was no justification in relieving him on 03.07.2003 itself i.e. within 03 days, especially when no such action has been taken by them for the principal who was to replace the applicant. The principal Smt. Rajya Laxmi who was already transferred by the same order and was transferred from Bhusawal to Chheoki, Allahabad

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as still date not reported at Chheoki, Allahabad which makes us  
are  
to give the above observation. In any case, we of the view  
that since nobody had reached at the station to relieve the  
applicant and he had already given his representation against the  
transfer, it would be expedient in the interest of justice to  
direct the respondent No.2 to consider the representation as well  
as this O.A. as applicant's representation and to decide the  
same within 4 weeks from the date of receipt of a copy of this  
order by passing a reasoned and speaking order under intimation  
to the applicant and till such time he should be allowed to  
work as Principal at Chheoki, Allahabad.

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

*Dhawan*  
Member (A)

*B*  
Member (J)

shukla/-