

Order dated 9.12.2002

Heard Shri B.Das, learned counsel for the Applicant and Shri Ashok Mohanty, learned senior counsel appearing for the Kendriya Vidyalaya Sangathan/Respondents.

Applicant xxxxxxxx is a Teacher, engaged under Kendriya Vidyalaya Sangathan. He was initially posted in the Kendriya Vidyalaya at Lumding in the State of Assam in the year 1986. He came on transfer to Kendriya Vidyalaya at Waltair/Vishakhapatnam during 1991. Later he was transferred to Kendriya Vidyalaya at Gopalpur Cantonment in the District of Orissa in the year 1994. While continuing at Gopalpur Cantonment Kendriya Vidyalaya, Sections of different classes of the said School were sought to be closed down; for which the Commissioner, Kendriya Vidyalaya Sangathan made certain communications on 15.7.1999. In response to the same, the Chairman of the Local Governing Body of Gopalpur Cantonment Kendriya Vidyalaya wrote a letter to the Commission under Annexure-1 dated 31.7.1999, requesting the Commissioner not to close down the Sections. While things were at communication stage as aforesaid, the Applicant faced an impugned order of transfer under Annexure-3 dated 30.10.1999 from Gopalpur Cantonment Kendriya Vidyalaya to Kendriya Vidyalaya, at Hasimara, which is more than 1500 kms. away from Gopalpur. The Applicant, while making a representation to adjust him either at Bhubaneswar or at Charbatia in Orissa, proceeded to the new station at Hasimara, where he is now continuing as a Teacher.

In the impugned order under Annexure-3 dated 30.10.1999, the Applicant faced a transfer on the ground that he was a surplus Teacher at Gopalpur Cantonment

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that vacancies were available at Bhubaneswar and at Charbatia in Orissa; where he could have been adjusted. Instead of allowing the Applicant to continue there and/or adjusting him against the available vacancy either at Bhubaneswar or at Charbatia, the transfer of the Applicant to a place which is 1500 kms. away from Gopalpur at the relevant of time was not proper action on the part of the Sangathan. Although transfer of an employee is an incident of service, the authorities should not have acted in a manner (as in this case) and they ought to have given due consideration to his girevances. The Applicant, in obedience to the orders of transfer has also joined in the new place of posting at Hisamara and in the meantime three years in between have elapsed. In the circumstances, this O.A. is disposed of with a direction to Respondents/Kendriya Vidyalaya Sangathan to immediately make arrangement to give a posting to the Applicant within Orissa/womewhere nearabout his native, before the commencement of the next academic session. No costs.

Send copies of this order to the Respondents and free copies of this order be also made available to the learned counsels of both sides.

MEMBER (JUDICIAL)