

8
CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 360 OF 2000
Cuttack, this the 5th day of October, 2000

Sri Hari Charan Rout Applicant

Vrs.

The Commissioner,
Kendriya Vidyalaya Sangathan and ors...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

—
(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
S.10200

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 360 OF 2000
Cuttack, this the 5th day of October, 2000

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Sri Hari Charan Rout, aged 44 years,
son of late Dibaskar Rout,
P.E.T., Kendriya Vidyalaya No.I,
Unit-IX,
Bhubaneswar-751 022 (Orissa).....Applicant

Advocates for applicant -M/s J.M.Mohanty
S.N.B.Ray
N.K.Das

Vrs.

1. The Commissioner, Kendriya Vidyalaya Sangathan
18, Institutional Area,
Saheedjeet Singh marg,
New Delhi-110 016
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan
HP-7, B.D.A.Housing Locality,
Laxmisagar, Bhubaneswar-751 006.
3. The Principal,
Kendriya Vidyalaya No.1
Unit-IX, Bhubaneswar- 751 022 (Orissa)
4. Sri K.N.Kar, PET,
Kendriya Vidyalaya No.1,
Unit-IX, Bhubaneswar-751 022....Respondents

Advocate for respondents - Mr.Ashok Mohanty

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application the petitioner has
prayed for quashing the order dated 8.8.2000 (Annexure-6)
transferring her from Kendriya Vidyalaya No.1, Bhubaneswar
to Kendriya Vidyalaya, Gopalpur Cantonment. The respondents
have filed counter opposing the prayer of the applicant,
and the applicant has filed a rejoinder. For the purpose of

of considering this petition it is not necessary to go into too many facts of this case. We have gone through the pleadings and heard Shri J.M.Mohanty, the learned counsel for the petitioner and Shri Ashok Mohanty, the learned counsel for the respondents.

2. The undisputed facts of this case are that the petitioner along with one K.N.Kar and one Smt.K.P.Das were three Physical Education Teachers in Kendriya Vidyalaya No.1 at Bhubaneswar. In that school one post of Physical Education Teacher became surplus. According to the rules, in such a case the Teacher in that subject having longest tenure in that school has to be transferred. Admittedly Shri K.N.Kar had the longest tenure. But instructions also provide that if such a teacher with the longest tenure is within two years of his superannuation, then he should not be transferred and the teacher with the next longest tenure has to be shifted. The Teacher with the ^{next} longest tenure is Smt.K.P.Das. Accordingly, option was called for by the departmental authorities for giving her choice for transfer to another school. Smt.Das gave choice of Dhenkanal, Paradeep, Bhubaneswar No.2 or No.3, Khurda Road and Gopalpur in that order. But instead of Smt.K.P.Das, the applicant, who had joined the school in February 1998 and has not completed even three years against the tenure of five years, has been transferred. It is submitted that the applicant is an office bearer of the Union and necessary approval of the higher authorities has not been taken for transferring the applicant. The respondents have pointed out that initially Smt.K.P.Das was thought of for transfer from Kendriya Vidyalaya No.1, Bhubaneswar. But subsequently instructions were received in letter dated 1.6.2000 (Annexure-C) that

J. Jom

in a school where there are two PETs, one of them must be male PET and the other a lady PET. The respondents have stated that in view of this instruction, instead of Smt.K.P.Das, the applicant was transferred to Gopalpur Cantonment which, according to the respondents, is the nearest place. As transfer order has been issued on 8.8.2000 after receipt of the instruction dated 1.6.2000 and we find this instruction about keeping one male PET and one lady PET in a school where there are two PETs eminently reasonable because Vidyalayas are co-educational institutions. In view of this, we find no illegality in the action of the departmental respondents in retaining Smt.K.P.Das in Kendriya Vidyalaya No.1, Bhubaneswar.

J. Jom

3. But in the process the applicant's option has not been called for. It is the admitted position that when, prior to receipt of instruction dated 1.6.2000, transfer of Smt.K.P.Das from Kendriya Vidyalaya No.1, Bhubaneswar, was being thought of, option was called for from her. But in case of the applicant no such option was called for. This is not to say that the departmental authorities must act on the basis of such option, but instructions provide that in such case option should have been called for. It is submitted by the learned counsel for the petitioner that as of today there is a vacancy of PET in Kendriya Vidyalaya, Baripada. The learned counsel for the respondents submitted that he has no instruction on this point. In consideration of the fact that while transferring the applicant from Kendriya Vidyalaya No.1, Bhubaneswar, his option was not called for, we dispose of this OA with a direction to the departmental respondents that in case the vacancy in the post of PET at Kendriya

Vidyalaya, Baripada, is existing as of today, then the applicant's case should be considered for posting at Kendriya Vidyalaya, Baripada, within a period of 15 (fifteen) days from the date of receipt of copy of this order. In case there is no vacancy at Baripada, the departmental respondents should call for the option of the applicant and give due regard to the option exercised by the applicant while giving him a posting. ~~His~~ ^{J. Jm} His prayer for quashing the order of his transfer from Kendriya Vidyalaya No.1 is accordingly rejected, and his prayer for quashing his posting at Kendriya Vidyalaya, Gopalpur Cantonment is disposed of in terms of our direction as given above.

4. In the result, therefore, the O.A. is disposed of in terms of the observation and direction above but without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)

5-10-2000
VICE-CHAIRMAN

5th October, 2000/AN/PS