

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dated 23.1.2001

Heard Shri S.K.Das, learned counsel for the petitioner and Shri Ashok Mohanty, the learned senior counsel appearing for the respondents and perused the records.

In this Application the applicant has prayed for quashing the order of transfer dated 10.11.2000 at Annexure-4 transferring him from K.V.S. Baripada to K.V.S. No.II, Karba. He has also prayed for direction to Respondents to transfer him as per option given by him vide Annexure-3. In the option given by him vide Annexure-3 he has indicated five places of his choice and as we understand from the learned counsel for the petitioner and not disputed by the learned senior counsel for the respondents, these are Balasore, Bhubaneswar, Cuttack, Bhubaneswar and Puri. Respondents have filed their counter opposing the prayer of the applicant and applicant has filed rejoinder. For the purpose of considering this application it is not necessary to go into too many facts of this case. The admitted position is that petitioner joined as Primary Teacher in the year 1984 in K.V.S., Gangtok and on his request/representation he was transferred to K.V. Baripada in 1988. It is also the admitted position that Gangtok was subsequently declared as hard station and the petitioner had worked in that hard station for about four years. Applicant has thus continued at Baripada for about 12 years from 1988. At the time of the last transfer seasons he gave his choice of posting in the manner indicated earlier at Annexure-3, but in the impugned order dated 10.11.2000 at Annexure-4 he has been transferred from Baripada to K.V. No.II, Karba. Respondents have pointed out that the applicant has continued at Baripada for 12 years. They have stated that one Harindranath Mandal working as Primary Teacher in K.V. No.II, Karba, which according to learned senior counsel is also a Hard station had applied for transfer to Baripada and with a view to accommodate Shri Mandal, a vacancy had to be created and the person with longest stay at Baripada, i.e., the applicant ~~has been transferred~~ in the impugned order.

It has been submitted by the learned counsel for the petitioner and also mentioned in the

1. for Admission

2. Rejoinder filed.  
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pleadings and not denied by the Respondents in their pleadings that one Nirmala Mohapatra, ~~who~~ has been working as Primary Teacher at Baripada for a period longer than the applicant and thus, according to learned counsel applicant is not the person with longest stay at Baripada. From the transfer order itself we find that in the transfer order <sup>some female</sup> special dispensation has been provided for ~~Primary~~ Teachers and those who belong to handicapped category. In view of this possibly, respondents have not transferred to a person with longest stay, i.e. Nirmala Mohapatra and have transferred the applicant.

Learned counsel for the petitioner has pointed out that according to transfer guidelines such transfer should be made positively before 31st of August and after 31st of August, transfer can be made only on the organisational reasons as also transfer on account of death and serious illness, mutual transfer and transfer on the recommendation of the Principal or the Managing Committee. In the instant case none of these considerations have been applied. Applicant has stated that his wife is working as a Teacher under the State Government nearby Baripada and he has got school going children. As the applicant has ~~been~~ put in 12 years of service at Baripada and in any case as he is due to be transferred from Baripada which is borne out by prayer No.2 in this O.A. and as Shri H.N.Mandal, who has been transferred joined in place of the applicant on 22.12.2000, and as he has not been made a party we do not see any reason to cancel the order of transfer of the applicant. This prayer is therefore rejected.

We take note of the fact that applicant has put for more than four years in Gangtok which is a hard station and now again has been transferred to K.V.No.II/<sup>Karba</sup> which is also a hard station. There may be Primacy School Teachers with comparable years of service as that of the applicant who might not have been put in any spell of duty in any hard station altogether. The applicant has filed a representation dated 18.11.2000 addressed to Education Officer, Kendriya Vidyalaya Sangathan, Office of the Commissioner, K.V.S., New Delhi in which he has

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prayed for consideration of his posting at K.V. I.T.I., Kharagpur and A.F.S., Salua. It is submitted by the learned counsel that the applicant may be permitted to file a fresh representation to the Commissioner, K.V.Sangathan with copy to Asst. Commissioner narrating his difficulties about his spell in hard station earlier. We direct the applicant to file such a representation within a period of seven days from to-day. In case such a representation is filed, Commissioner, Kendriya Vidyalaya Sangathan is directed to dispose of the same within a period of 30(Thirty) days from the date of receipt of such representation and intimate the result thereon to the applicant within a period of another 15(fifteen) days thereafter. In case there is no vacancy of the applicant's choice as per his representation to be ~~given~~ filed, the Commissioner, Kendriya Vidyalaya Sangathan should consider if the applicant can be posted in any other place within the territory of the State of Orissa.

With the above direction O.A. is disposed of, but without any order as to costs.

MEMBER (JUDICIAL)

V. Venkatesh  
VICE-CHAIRMAN  
23.1.2001

Free copies of  
final order  
dt 23.1.01 given  
to both parties  
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29.1.01  
S.O.V.