

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

07. 03.04.2001

No hearing ^{at} ~~an~~ admission ^{stage} matter was taken up to-day due to a reference made by the Bar regarding sad demise of a member.

Adjourned to 11.04.2001.

For Admission
(counter-fetted-
copy served)

DS
10/4/01

Bench

vice-Chairman
J. J. Man

Member (J)

Order dated 11.4.2001

In this Application the petitioner, who is a Primary Teacher under Kendriya Vidyalaya Sangathan and working at Kendriya Vidyalaya, Berhampur has prayed for quashing the order dated 10.11.2000 vide Annexure-1, transferring him from Berhampur to Kirandul on the grounds urged by him in the O.A. He has also made an alternative prayer that Respondent No.1 be directed to modify the transfer order without disturbing him from Bhubaneswar. It is also submitted by the learned counsel that what the applicant means by this is that he prays not be transferred from Bhubaneswar Region. The departmental respondents have filed their counter opposing the prayer of the applicant. Applicant has also filed rejoinder. Earlier the parties have also made various averments in the show cause and the reply to show cause.

Heard Shri D.K.Patnaik, learned counsel for the petitioner and Shri Ashok Mohanty, learned Senior counsel appearing for the Kendriya Vidyalaya Sangathan and also perused the records.

For the purpose of considering this O.A. it is not necessary to go into too many facts of this case. The admitted position is that applicant is a Primary Teacher and has been working at Kendriya Vidyalaya, Berhampur from 1985. He has thus completed 15 years of service in the same School and same

J. J. Man

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Station. In the impugned order he has been transferred from Kendriya Vidyalaya, Berhampur to Kirandul. Applicant has stated that in the impugned order of transfer at Annexure-1, nobody had been posted in his place. Respondents have pointed out that in another order issued on the same day one Shri Lokanath Pati, a Primary Teacher of Kendriya Vidyalaya, Kirandul has been transferred in place of the applicant at K.V. Berhampur. It is also the admitted position between the parties that Kirandul is a hard station. ^{per} AS/ Para-10.1 of transfer guidelines, a person who is put in the requisite number of years of service in a hard station is to be posted to the place of his choice. Respondents have stated that accordingly Shri Lokanath Pati has been given the choice of his posting at Berhampur and the applicant being the senior most Primary School Teacher in Kendriya Vidyalaya, Berhampur, has been transferred in place of Shri Patri to K.V., Kirandul. Applicant has stated that the transfer order has come in the mid-academic session and his two children are studying in Berhampur. It is also stated that applicant's mother is an ailing person and his wife is working as Lecturer under the State Government. It is ^{both} stated that the instructions provide that when husband and wife are Govt. servants efforts should be made to the extent possible to place them in the same station. It is further submitted by the learned counsel for the petitioner that in the process of transfer applicant has been shifted from Berhampur to a place outside the Bhubaneswar Region, even though there are vacancies existing within Bhubaneswar Region. Lastly it is submitted that a number of persons who were transferred to places outside the Bhubaneswar Region had represented and in consideration of the same their orders of transfer to places outside the Bhubaneswar Region have been modified and they have been retained in other places within the Bhubaneswar Region. It is stated by Shri Patnaik, learned counsel that the applicant has represented to the Commissioner, Kendriya Vidyalaya Sangathan (Respondent No.1), but his representation has not been considered on the ground, as alleged by him, of ^{he} having filed this Original Application.

J. Patnaik

10
CA. 549/2000

We have considered the above submissions carefully. The transfer order in this case has come in November, 2000, which is no doubt during mid academic session. But the applicant is on leave after having been relieved from the post at Berhampur and by now the academic session is over. Moreover the applicant's children are studying in Kendriya Vidyalaya, Berhampur and by this transfer they can get admission in Kendriya Vidyalaya, Kirandul and undergo the same course and the same examination system. As the applicant has remained at Berhampur for a period of 15 years at a stretch, he cannot claim that because his wife is working under the State Government he should be allowed to continue at Berhampur. On the same ground also the plea of the applicant to be retained at Berhampur cannot be acceptable.

In consideration of the above, we hold that the prayer of the applicant for quashing the order of transfer vide Annexure-1 is without any merit and the same is rejected. So far as second prayer of the applicant is concerned, from the document enclosed by the applicant to the O.A. it appears that in case of certain other persons, who had been transferred to places outside Bhubaneswar Region, the authorities concerned have considered their representations and kept them within the Bhubaneswar Region. In view of this, we direct Respondent No.1, viz. Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, to consider representation dated 4.12.2000, stated to have been filed by the applicant vide Annexure-5 series in the O.A. if the same are still pending with him and dispose of ^{the} ~~these~~ representations in accordance with rules within a period of 30 (Thirty) days from the date of receipt of this order.

With the above observation and direction, this Original Application is disposed of, but without any order as to costs.

MEMBER (JUDICIAL)

Sannath Singh
VICE-CHAIRMAN
11.11.2001

Free copies of final order
dt. 11.11.01 issued to counsels
for both sides.

B. M. J.
S.O. (D)

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