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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.648 OF 2003
Cuttack this the 7th day of April, 2004

Smt. Mukta Dikshit ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

FOR INSTRUCTIONS

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

J. Mohanty
07/04/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.648 OF 2003
Cuttack this the 7th day of April, 2004

CORAM:

THE HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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Mukta Dikshit, aged about 31 years,
W/o. Sanjay Kumar Mishra, E/30,
(Executive Apartment) Sector-5,
Rourkela, Dist-Sundergarh, Orissa

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Applicant

By the Advocates

M/s.S.J.Dash
P.R.J.Dash

- VERSUS -

1. Commissioner, Kendriya Vidyalaya Sangathan,
18, Industrial Area, Saheet Jeet Singh Marg,
New Delhi-110 016
2. Asst.Commissioner, Kendriya Vidyalaya Sangathan
H.P.-7, BDA Colony, Laxmisagar, Bhubaneswar-757006
3. Education Officer, Kendriya Vidyalaya Sangathan
18, Industrial Area, Saheet Jeet Singh Marg,
New Delhi-110 016
4. Principal, Kendriya Vidyalaya, Mysore, Karnatak
5. Principal, Kendriya Vidyalaya, Bondamunda,
Dist-Sundargarh, Orissa

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Respondents

By the Advocates

Mr.Ashok Mohanty
M/s.S.P.Nayak
M.K.Rout
J.K.Samantsinghar

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O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL): Applicant (a Post

Graduate Lady Teacher in Kendriya Vidyalaya at Bandhamunda
near Rourkela of Orissa) having faced an order of Transfer
(Annexure-3 dated 31.03.2003) to Kendriya Vidyalaya at
Mysore in Karnataka filed the present Original Application
under Section 19 of the Administrative Tribunals Act, 1985;
when, instead of redressing her grievances raised under

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her different representations, she was threatened to face disciplinary proceedings under Annexure-13 dated 26.08.2003.

2. It appears, the Applicant's husband is engaged as a Deputy Manager in the Centre of Engineering and Technology (a sister organisation of Steel Authority of India Ltd. under the Govt. of India, Ministry of Steel & Mines) stationed at Rourkela (Orissa) and the Applicant (Ms. Mukta Dikshit) was engaged as a Post Graduate Teacher in the nearby Kendriya Vidyalaya at Bandhamunda; a sub-urban area of Rourkela; with effect from 08.08.1997. She was on maternity leave from 09.08.2002 to 21.12.2002; when the members of staff of the School (at Bandhamunda) were asked to exercise their option for taking transfer; on the basis of the Circular at Annexure-15 dated 14.08.2002 of the Hqrs. of Kendriya Vidyalaya Sangathan and, in the said premises, the Applicant could not exercise here option to be posted (in the event of her transfer) at a nearby place. It is the positive case of the Advocate for the Applicant that no-body ever asked/informed her (on her return from maternity leave or during the period she was away on such leave in question) and, thus, she remained in dark about the requirement of exercising the option in question. Having faced with the order of transfer (Annexure-3 dated 31.03.2003) the Applicant submitted a series of representations to her authorities and one of such representations received favourable reconsiderations of the Regional authorities (Asst. Commissioner of K.V.S.) at Bhubaneswar vide letter No.F8-3/2003-KVS(BBS)/Grievance/13371 dated 01.05.2003. When such representations were pending consideration of her authorities, the Principal of K.V.S. at Siddhartha Nagar of Mysore



called-upon the Applicant (under Annexure-13 dated 26.08.2003) to report to duty at that school (in Mysore) under the pains of disciplinary proceedings and, at that stage, the Applicant has filed the present Original Application.

3. By filing a counter, the Respondents have disclosed that since the Applicant completed five years at Bandhamunda K.V.S. she was due to face a transfer and since she did not exercise any option, she has been transferred within the zone in which she is working. At the hearing, Mr.Ashok Mohanty, learned counsel for the Respondents-KVS disclosed (apparently, with due instructions) that even if she would have exercised option, then also she would have faced a transfer to a distant place like Mysore; for her husband is not under Govt. of India Service; but only in a semi private organisation like, M/s.C.E.T.

4. Heard Mr.Surendra J.Dash, learned counsel appearing for the Applicant and Mr.Ashok Mohanty, learned counsel appearing for K.V.S. and perused the materials placed on record.

5. Although transfer and posting are inherent powers of master, by referring to Para-10(2) and Para-15 of Annexure-14 (the guidelines enclosed to Annexure-15 dated 14.08.2002) the Advocate for the Applicant stated, that the K.V.S. authorities, being conscious, provided relief for the women-staff of K.V.S. and yet, while transferring her, no considerations were given to the case of the Applicant. Relevant portion of Para_10 and Para-15 of Annexure-14 are extracted below for a ready

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reference :-

"10(2) While transferring out such teachers, efforts would be made to accommodate lady teacher at nearby places/stations, to the extent possible and administratively desirable".

15. A teacher on promotion shall necessarily be posted out of the region where he is currently posted. However, a lady teacher may on promotion be posted within the same Region but a district or two away from the existing place of posting, subject to availability of vacancy".

6. While the scheme of transfer and posting has provided to take care of women-staff of K.V.S. consciously, the action of the Respondents (in not extending her the benefit to exercise option) is bad being opposed to the very intention of K.V.S. Organisation. That-apart, merely because she failed to exercise the option, the authorities should not have neglected to extend her the benefit of Para-10(2)(above) of the Instruction. They should have transferred her out of Bandhumunda School to nearby KVS/ Schools and not to a distance place in Karnataka State. Respondents should also have given sympathetic consideration to the grievance raised by the Applicant in her representation. They should have realised that a young lady with two small children ought not to have been transferred to Karnataka State from Orissa ^{and} re-posted her some-where nearby. Maintaining stone-silence on her representation (which was recommended with favourable note from Bhubaneswar Region of K.V.S. on 01.05.2003) was not only bad but ^{but the action of} insisting on her to go and join at a K.V.S. in Karnataka (during pendency of her representation) was also an arbitrary action unbecoming of a democratic discipline.

7. In the meantime a year has already passed and the authorities of K.V.S. must be taking steps for next annual transfer.

8. In the above premises, the Respondents K.V.S. authorities ought to reconsider the case of the Applicant (for which she need submit a fresh representation, by exercising her options and by disclosing her real difficulties) and give her a suitable posting within Orissa/at a nearby place; instead of sending her to distance place like Karnataka. The Respondents, should thereafter treat the entire intervening period as extended joining time, in the peculiar circumstances of the case. The impugned transfer of the Applicant to Karnataka State (order dated 31.03.2003) shall remain suspended until reconsiderations are given by the Respondents.

9. With the above observations and directions, this Original Application is allowed. No costs.

07/04/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

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