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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 271 OF 2005
CUTTACK, THIS THE 25th DAY OF November, 2005


Santosh .BAPPLICANT

V S

Kendriya Vidyalaya SangathanRESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? ye
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ye


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 271 OF 2005
CUTTACK, THIS THE 25th DAY OF November, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

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Shri Santosh .B, aged about 41 years, Son of Shri Rabindranath Kaiman,
At present working in Kendriya Vidyalaya No-III, Mancheswar,
Bhubaneswar, Dist.Khurda, now under transfer to Chirimiri at Madhya
Pradesh.

.....Applicant.

Advocate(s) for the Applicant - M/s. J.M.Mohanty, K.C.Mishra.

VERSUS

1. Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.
2. Asst. Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, At- Pragati Vihar, Mancheswar, Bhubaneswar-751017, Dist. Khurda.
3. Principal, Kendriya Vidyalaya No.III, At/P.O./P.S.-Mancheswar, Bhubaneswar, Dist. Khurda.
4. Principal, KVS, Chirimiri (SECL), Madhya Pradesh.
5. Principal, Kendriya vidyalaya, Paradeep Port, At/P.O./P.S.- Paradeep, Dist. Jagatsinghpur.
6. Shri Hrusikesh Padhi, P.G.T. Teacher, K.V. Paradeep Port, At/P.O./P.S.-Paradeep, Dist. Jagatsinghpur.

.....Respondents.

Advocate(s) for the Respondents - M/s. Ashok Mohanty (Sr. Counsel),
J.Sahu, S.P.Nayak, M.K.Rout,
H.K.Tripathy(R-1to3).

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Santosh .B, by filing this O.A. has ventilated his grievance that he has been transferred by the Respondents from K.V.No-III, Mancheswar to Chirimiri, Madhya Pradesh within two years of his stay at the said K.V. at Mancheswar.

2. The case of the applicant is that on his entering into the service as PGT (Maths) in the year 1994, he had spent 6 years 9 months of tenure at Itanagar in the North East after which he was, on his request, transferred to K.V., New Sprint Nagar, Kottayam, Kerala in the year April, 2000. Three years thereafter he was posted out to Mancheswar (Annexure-2); but two years thereafter again he has faced transfer to another hard station at Chirimiri. He has taken the position that he, having spent 6 years 9 months in a very hard station in the North East, suffered from an incurable disease called, 'Tropical Calcific Pancreatitis' for which he underwent a major operation in the year 1998 and has to be under treatment although his life. On the other hand, he has been a subject to repeated transfers within short spells. What is of greater concern to him is that he has again been, within five years of span, transferred to a hard station which is likely to affect his health adversely.

3. The Respondents, on the other hand, have taken the position that the transfer of the applicant was done under Paras-10(2) and 10(3) of the transfer guidelines (Annexure-A/4) for accommodating one Shri Narayan

Bal who was working at Chirimiri who on completion of three years, requested for transfer to K.V.No.1, Bhubaneswar. A request for transfer to Bhubaneswar was also pending in respect of one Shri H.K.Padhi (Respondent No.6) in terms of priority list and one teacher from K.V.No.1, Bhubaneswar was posted to Paradeep Port in terms of Rule-10 (3) of the guidelines and Shri Padhi was transferred to K.V., Mancheswar. This necessitated the applicant to be transferred out of the K.V., Mancheswar to enable the Respondents to create a vacancy to give effect to the request of transfer of Shri Narayan Bal. Their further stand is that the applicant being junior-most at Bhubaneswar station had to be disturbed in the process.

4. I have heard the Ld. Counsel for both the parties and have perused the materials placed before me.

5. From the facts and circumstances of the case, it is undisputed that the transfer of the applicant took place under Para-10(3) of the guidelines. It is also not disputed that the applicant had spent a long tenure at the beginning of his career in the Respondent organization and that he had undergone major operation and that he is now transferred to a hard station. The Respondents have taken the position that his posting having been done in terms of the declared policy of the Sangathan, the same cannot be challenged as either arbitrary or unjust. The Ld. Counsel for the applicant, however, submitted before me that Shri Padhi, Respondent No.6, who has displaced him at Mancheswar as Maths teacher has since been promoted as Vice-Principal in the same Vidyalaya; in the circumstances, it should not be difficult for the Respondents to retain him at Mancheswar without injuring any guidelines or any other competing interest.

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6. The Ld. Counsel for the Respondents, however, did not have any instruction in this regard. Be that as it may, having regard to the submission made by the Ld. Counsel for the applicant that Shri Padhi, Respondent No.6 has now been promoted as Vice-principal of the Vidyalaya causing a vacancy in the mathematics stream of the said K.V., it should be possible for the Respondents to consider the case of the applicant. Needless to say that the applicant who had served for 6 years 9 months in the remote place like Itanagar and whose medical history supports that he having disease relating to digestive system of his body needs due care and attention not only from his family but also from the employer. In the circumstances, liberty is granted to the applicant to file a representation within 15 days from the date of receipt of this order before the competent authority to reconsider his case for retention at K.V., Mancheswar and pass appropriate orders within a period of 30 days from the date of receipt of his representation should there be ^a~~the~~ vacancy available in the Mathematics stream consequent upon promotion of Respondent No.6 to the post of Vice-Principal. I order accordingly.

7. Before I end, I would like to mention here that I found from a perusal of the guidelines that tenure of the employees at a station has been notified under para-4 of the said guidelines. The said para reads as follows:

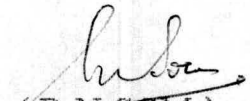
"The maximum period of service at a station shall generally not exceed three years in the case of Assistant Commissioners and five years in case of Principals/Education Officers. In case of Principal, Commissioner may extend the

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period of service beyond five years at a Vidyalaya in order to promote academic excellence."

8. From the above, it is clear that whereas the maximum period of service in a station has been fixed/notified in case of Assistant Commissioners/Principals/Educational Officers, no such time frame/tenure has been notified in respect of the teachers. The Respondents are directed to consider fixing minimum period of tenure at station for the teachers also to ensure uniformity in transferring teachers from one station to another.

9. The O.A. is accordingly disposed of. No costs.


(B.N.SOM)
VICE-CHAIRMAN

KUMAR