

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No. 480 of 2011
Cuttack this the 5th July, 2012

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE
MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Chinmayee Prava Kar, aged about 52 years, W/o. Dharanidhar Behera, TGT (O), JNV, Mundalia, Cuttack Resident of Naranapada near Fandhi Chhak, PO-Chandol, District-Kendrapara

...Applicant

By the Advocates: M/s. A.K. Bose & P.K. Das

-Versus-

1. Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110 948
2. Deputy Commissioner, Navodaya Vidyalaya Samiti(NVS), At/PO- 160, Zon-I, M.P.Nagar, Bhopal-462 011
3. Principal, Jawahar Navodaya Vidyalaya Samiti, At/PO- Mundali, Dist-Cuttack
4. Smt.Lily Jha, TGT(O), W/o.Sakti Sankar Jha, Jawahar Navodaya Vidyalaya (JNV), At/PO-Mundalia, Dist-Cuttack

... Respondents

By the Advocates: Mr.D.K.Behera, ASC (Res.1 -3)
Mr.A.K.Sethi (Res.4)

ORDER

C.R.MOHAPATRA, MEMBER (A):

Applicant, while working as TGT (Oriya) in Navodaya Vidyalaya Samiti, Cuttack having been transferred vide order dated 11.7.2011 (Annexure-A/3) has moved this Tribunal in this Original Application under Section 19 of the A.T.Act, 1985 praying therein for quashing the said order of transfer and consequently to allow her to work at JNV, Mundali, Cuttack.

2. The points urged by the learned counsel in support of his contention are that the present transfer of the applicant has been made

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in violation of the guidelines. Secondly, this transfer arises out of bias and mala fide as it has been effected in order to accommodate Respondent No.4.

3. Respondent-Department including Private Respondent No.4 have filed their counter separately opposing the prayer of the applicant. The Applicant has also filed rejoinder to the counter.

4. This matter came up for admission on 28.7.2011 when this Tribunal, directed notice to be issued to the Respondents on the question of admission. The prayer for interim relief was allowed to lie over till reply/objection to be filed by the Respondents.

5. In the meantime counter having been filed, the matter is taken up for final disposal.

6. We have heard the learned counsel for the parties and perused the materials on record.

7. It is the settled position of law that the Court/Tribunal can interfere with the orders of transfer if such transfer arises out of bias or mala fide and/or there has been violation of any statutory/mandatory rules while effecting transfer.

8. Applicant has not produced any document to show that she has been transferred in violation of statutory/mandatory rules. So far as applicant's plea that her transfer has been made by violating the guidelines holds no water in view of the fact that guidelines are only guidelines to be followed but they do not take the place of statute.

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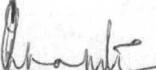
9. The other plea of the applicant that in order to accommodate Respondent No.4 she has been transferred is not borne out by any corroborative material.

10. As regards plea of the applicant that she should be exempted from rotational transfer after attaining 50 years, it is the case of the Respondent-Department that the employee under the Samiti could be transferred at any point of time from one station to another in public interest.

11. Be that as it may, it reveals from the record, that the applicant without exhausting the departmental remedies available to her rushed to the Tribunal in the present O.A. In this view of the matter, if so advised, applicant may make a representation to the Respondent-Department and in the event such a representation is filed, the same shall be considered and disposed of by the latter in accordance with rules under intimation to the applicant within a period of sixty days from the date of receipt of this order. Ordered accordingly.

12. With the above observation and direction, this O.A. is disposed of. No costs.


(A.K.PATNAIK)
MEMBER(JUDL.)


(C.R.MOHAPATRA)
MEMBER (ADMN.)