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OA No.339 of 2009

Puspalata Panda Applicant
Versus
UOI & Ors. Respondents

1. Order dated 17TH August, 2009.

C O R A M

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (ADMN.)

On being mentioned by the Learned Counsel


for the Applicant, this Original Application was taken up today.

2. Heard Learned Counsel for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel appearing on notice for and on behalf of the Respondents and perused the materials placed on record.

3. Applicant is a Trained Graduate Teacher in the discipline of Regional Language 'Oriya' of Jawahar Navodaya Vidyalaya presently posted in the school situated at Salbani in the District of Mayurbhanj. In this Original Application, she challenges the policy adopted for effecting rotational transfer of Regional Language Teachers working under the JNV under Annexure-A/5 dated 23.07.2009 so also the letter under Annexure-A/10 dated 3rd August, 2009 in which



the Respondents asked the Applicant and others to be present in the counseling before effecting the transfer pursuant to the order under Annexure-A/5 on the ground that the same are illegal, arbitrary and discriminatory in nature. It is the contention of the Learned Counsel for the Applicant that while considering to disturb the Applicant, the authorities did not apply their mind to the guidelines issued by the Government of India for allowing both husband and wife to stay at one place, education of the children and other innumerable difficulties to be caused in case such transfer policy is given effect to. It was further contended by Learned Counsel for the Applicant that adoption of the policy to follow rotational transfer only in respect of Regional Language Oriya Teachers not for any others, is highly discriminatory and as such, the policy under Annexure-A/5 is liable to be quashed. According to the Applicant though representation has been made no consideration has been given till date and there is every possibility of transferring the Applicant even without taking note of the points raised by the Applicant in her representation.



The above submission of the Learned Counsel for the Applicant was strongly opposed by Mr. Mohapatra, Learned Senior Counsel for the Respondents by stating that as per the law policy decision of the Government cannot be interfered with and as the order Annexure-A/5 was issued by way of policy in the interest of the students, the order under Annexure-A/5 does not warrant any interference. Similarly it was pointed out by Learned Senior Standing Counsel for the Respondents that the letter under Annexure-A/10 was issued for counseling which decision was also akin to the principle of natural justice. The Applicant also participated in the counseling. But no decision has yet been taken in the matter in that no transfer order has been issued so far. As such, this OA being a premature one is liable to be dismissed.

4. Similar question came up for consideration before the Division Bench of this Tribunal in OA No. 328 of 2009 filed by another employee of JNV namely Mrs. Nirupama Bhanja questioning the letter asking her to be present in the counseling. After considering the totality of the matter, the Division Bench of this

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Tribunal in its order dismissed the said OA. Full text of the order is extracted herein below:

"The applicant, an Oriya Language Teacher of Navodaya Vidyalaya, has filed this O.A. challenging the transfer of regional language teachers under the rotational transfer policy on the ground that the Central Government, namely DoPT had issued certain guidelines regarding the posting and transfer of couple employed in the same station or in the public undertakings or other Govt. Departments. But without considering the guidelines issued by the DoPT, now the Navodaya Vidyalaya Samiti issued certain guidelines applicable to the employees regarding posting and transfer of couple confined to working in the same institution and not covering any of the couple working outside the institution. The applicant further contends that as per the guidelines now adopted by the Respondents, she would be transferred outside the State. The applicant also submits that as per Annexure-A/5, a tentative list of regional language teachers has been published, who are considered for transfer from native States to out of their native States, which also contains her name for transfer. The further case of the applicant is that as her husband is working at N.K.C. College of Teacher Education, Angul/ a Govt. College of Orissa, the transfer will affect her family life.

2. We have heard Mr. K.T.Panigrahi, Ld. Counsel for the applicant and Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel for the Respondents, who appears on notice.

3. The question to be considered is whether the guidelines now issued by the Navodaya Vidyalaya Samiti are against the guidelines or orders issued by the DoPT or not and the applicant can be retained in the Orissa State applying the guidelines now adopted or accepted by the Navodaya Vidyalaya Samiti.

4. We have seen that the new policy of transfer adopted by the NVS is after having counseling with all the teachers working and other concerned authorities and it is their lookout to find out the betterment of the family life of their employees and that has been considered at length by the Department. If so, we are not in a position to

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interfere with the orders now proposed to be passed even for the transfer of the applicant.

5. In the above circumstances, we see that there is no ground to entertain the O.A. as it is meritless.

6. Accordingly, the O.A. stands dismissed. “

5. It is seen that no representation has been made by the Applicant against the policy decision under Annexure-A/5. I also see that the out come of the counseling made as per letter under Annexure-A/10 is yet to come. It is also not the case of the Applicant that she is likely to be disturbed by *mala fide* exercise of power. Personal difficulties urged by the Applicant cannot be a ground to interfere in the order of transfer by the Tribunal; as it is settled law that these are the matters only to be looked into by the employer. While deciding matter of transfer the Hon'ble High Court of Madras in the case of **Palanisamy v. General Manager, Tamil Nadu State Transport Corporation Ltd.**, 2006 (6) SLR 155 held as under:-

“Almost every one has children and if such kind of request is entertained, no transfer order can ever be passed. Every transfer order causes some hardship but if one wants to remain in service he has to obey the transfer order as transfer order is a purely administrative order and is not a punishment. Transfer is an ordinary exigency of service”.

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6. Above being the position, I find no prima facie case even to admit this OA. Hence, this OA stands dismissed at this admission stage by leaving the parties to bear their own costs,

7. Send copies of this order along with OA to all the Respondents,


Member(Admn.)