

Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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Date of Order : 20.9.2002

O.A. No. 206/2002

Akhilesh Kumar S/o Shri Hari Shanker Ram By Caste Jatav, aged about 31 years, at present posted as P.G. Teacher (Bio) in Jawahar Navodaya Vidyalaya, Mahiyawali, Distt - Sri-Ganganagar.

..... Applicant.

versus

1. Union of India through the Commissioner
Navodaya Vidyalaya Samiti (H.Qrs.),
Indira Gandhi International Stadium,
Indra Prasth Estate,
New Delhi - 110 002.

2. Deputy Director,
Navodaya Vidyalaya Samiti,
A-12, Shastri Nagar, Jaipur (Raj)-302 016.

3. The Principal,
Jawahar Navodaya Vidyalaya,
Mahiyawali, Distt. Sri Ganganagar.

..... Respondents.

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CORAM :

Hon'ble Mr. Gopal Singh, Administrative Member
Hon'ble Mr. J.K. Kaushik, Judicial Member

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Mr. N.R. Choudhary, counsel for the applicant.
Mr. V.S. Gurjar, counsel for the respondents.

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(Signature)

O R D E R

Per Mr. Gopal Singh, Administrative Member :

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Akhilesh Kumar, has prayed for quashing the impugned Transfer Order dated 26th July, 2002 (Annex.A/1) with all consequential benefits. In terms of Annexure A/1, applicant has been transferred from Jawahar Navodaya Vidyalaya, Sri Ganganagar (Rajasthan) to Jawahar Navodaya Vidyalaya, Hissar (Haryana).

2. Contention of the applicant is that the transfer order dated 26th July, 2002 (Annex.A/1) is a transfer order from one region to another and has been issued by the Deputy Director, Navodaya Vidyalaya Samiti, Jaipur (Rajasthan). Thus, the contention of the applicant that his transfer to another region namely, Haryana, cannot be ordered by the Deputy Director, Navodaya Vidyalaya Samiti, Jaipur. It has to be ordered by the Headquarters Office.

3. Notices were issued to the respondents and they have filed their reply. It has been pointed-out by the respondents in the reply that respondent-department vide their letter dated 4th April, 2002, made it clear that the annual intra regional transfers for the year 2002 were to be made as per the old organisational set-up of the Samiti and the same was to be done after the

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Samiti issues the inter-regional transfer orders. It has further been clarified that transfers as per the new organisational set up in accordance with the Notification dated 6th March, 2002 (Annex.A/2), shall be effective from the year 2003 only. It has further been stated that the applicant has been transferred from Sri Ganganagar (Rajasthan) to Hissar (Haryana) in public interest and on administrative ground that the applicant is a Post Graduate Teacher (Biology) and the Science stream from Jawahar Navodaya Vidyalaya, Sri Ganganagar has been abolished and the students of Science stream from Jawahar Navodaya Vidyalaya, Sri Ganganagar, have been transferred to Jawahar Navodaya Vidyalaya, Bikaner/Churu. In view of the allocation stream for the subjects for the year 2002-2003, Jawahar Navodaya Vidyalaya Samiti, Regional Office, Jaipur, the transfer of the applicant was necessitated and the applicant has been shifted to a nearest vacant place available with the respondents. It has, therefore, been averred by the respondents that applicant has no case and the Application is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused record of the case carefully.

5. The contention of the applicant is that Hissar falls within the jurisdiction of Chandigarh Region and Sri Ganganagar falls within the jurisdiction of Rajasthan region in terms of Navodaya Vidyalaya Samiti, New Delhi, letter dated 6th March, 2002 (Annex.A/2). The applicant has, therefore, challenged his transfer from Sri Ganganagar

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to Hissar which is in another region, alleging that the orders have been issued by an authority which is not competent to do so. The orders should have been issued by the Navodaya Vidyalaya Samiti, New Delhi, since it is an inter regional transfer.

6. The learned counsel for the respondents have brought to our notice Navodaya Vidyalaya Samiti, New Delhi's letter dated 4th April, 2002, wherein, it has been provided that transfers as per the new organisational set up in accordance with the Notification dated 6th March, 2002, shall be effective from the year 2003 only. As per the existing organisational set up, Hissar falls within the jurisdiction of Jaipur Region and, therefore, transfer orders at Annexure A/1 issued by the Deputy Director, Navodaya Vidyalaya Samiti, Jaipur, were the orders issued by a competent authority. The learned counsel for the respondents also took us through a detailed chart incorporating changes recommended in stream allocation for the year 2001-2002 and pointed-out that the Science students in class XI and XII in Sri-Ganganagar school were transferred to Bikaner school. 10 students of class XI and 6 students of class XII in the Science stream, were shifted to Churu, therefore, no Science stream students remained in Sri Ganganagar in class XI and XII. The applicant being a Post Graduate Teacher in Biology, has, therefore, been shifted to Hissar where a Biology Teacher is needed. The learned counsel for the applicant has also pointed out that there are Science students in class IX and X also and

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the services of the applicant could have been utilised for them at Sri Ganganagar. Here, it is pointed - out that the management of the School is run by the Navodaya Vidyalaya Samiti and not according to whims and fancies of a teacher. The learned counsel for the applicant has also relied upon a Supreme Court judgement in Civil Appeal No. 4898/1993 dated 11th February, 1994 - Dr. Ramesh Chandra Versus Union of India, where transfer was ordered by an incompetent authority and the transfer orders were set aside. In the instant case, as has been discussed above, the transfer order has been issued by a competent authority and, therefore, the cited judgement does not help the applicant. The learned counsel for applicant has also cited the judgement reported in RLR 1989 (1) 163- Rajasthan Council of Diploma Engineers versus State of Rajasthan and others, wherein the circumstances under which a Court can interfere in matters of transfers, have been discussed. We find that this judgement also does not come to the rescue of the applicant.

7. In the light of above discussions, we do not find any infirmity in the Transfer Order dated 26th July, 2002 (Annex. A/1), necessitating our interference.

8. The Original Application is, therefore, dismissed. The Interim Order issued by this Tribunal on 12th of August, 2002, stands vacated. No order as to costs.

M.Kaushik
(J.K.Kaushik)
Judicial Member

Gopal Singh
(Gopal Singh)
Administrative Member

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