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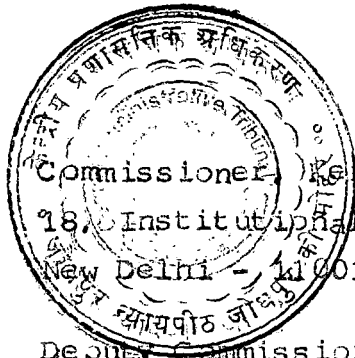
CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 328/2002

DATE OF ORDER: 13.02.2002

V.K. Yadav S/o Late Shri Tek Chand, R/o House No. 1044, Kailash Nagar, Rewari Road, Narnaul Distt. Mahender Garh (Haryana) Pin - 123001, At present Primary Teacher, K.V. Lalgah Jattan. Distt. Sri Ganganagar (Raj.)

...APPLICANT.



V E R S U S

1. Commissioner, Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi - 110016.
2. Deputy Commissioner (Administration),
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi - 110016.
3. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, 92, Gandhi Nagar Marg,
Bajaj Nagar, Jaipur - 302015.

...RESPONDENTS.

Applicant present in person.

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

: O R D E R :

BY THE COURT:

Shri V.K. Yadav, has filed this Original Application assailing the impugned order dated 02.04.2002 (Annexure A/1)

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vide which he has been ordered to be transferred from K.V. Raghunathpura (Narnaul) to K.V. Lalgah Jattan in public interest.

2. The brief facts of the case are that the applicant is employed on the post of Primary Teacher. He was posted at Raghunathpura (Narnaul) in the year 1992 and by the impugned order he has been transferred to Lalgah Jattan in public interest. His wife is also working as J.B.T. Teacher in Haryana Education Department, presently posted at Government Pre-Primary School, Narnaul. His children are also studying in Haryana and there is no other member in the family to look after his domestic affairs.

3. The further case of the applicant is that he applied for mutual transfer with one Shri Kailash Chand, Primary Teacher, K.V. Rewari through proper channel and the same was forwarded by the Assistant Commissioner, K.V.S, Regional Office, Jaipur to Respondent No. 2 but the same ~~did not~~ ^{yield} any fruitful result and the applicant was ordered to be transferred to K.V. Lalgah Jattan in public interest in an arbitrary manner.

4. It has also been mentioned that the applicant was also asked to submit the Annual Request Transfer, he submitted five choice as per the transfer policy namely (i) Rewari (ii) Manesa (iii) Rohtak (iv) Jaipur & (v) Chandigarh. He has also submitted that certain more teachers were allowed on request transfer but his case was neglected. There has been neglect regarding counting 10 points earmarked for OCS.

5. It has also been submitted that one Mrs. Rani Mathur, Primary Teacher was transferred to K.V. (BSF) Jodhpur in April 1999 and she has been again transferred to K.V. Raghunathpura

(Narnaul), on her own request in August 2001 in ~~dis~~regard to the transfer policy displaced one of the Senior Teacher to the applicant. Had it not been done the applicant's term for transfer would not have come as a longest stay.

6. The next submission of the applicant is that one Shri R.S. Vashista has been transferred on request transfer vide the impugned order vice the applicant. Shri Vashista was transferred to Jaisalmer in the interest of administration and thereafter to Lalgah Tattan with modification of the transfer order on his own request in May 1999. Here again on request transfer was entertained before completion of just three years. Not only this Shri Vashista has again been allowed on request transfer with one Shri Kailash Chand and he has been subsequently posted to K.V. Rewari. He has also submitted that he has been teaching higher classes for a long period without taking any remuneration.

7. The Original Application has been filed on number of grounds e.g. the impugned order is contrary to the provision of law, it has been issued in disregard to the transfer policy, his request for ^{mutua} transfer was neglected, his wife is also serving in Haryana Education Department and he is faced with peculiar domestic circumstances, thus, the impugned order is violative of Article 14, 16 & 21 of the Constitution and hence this Original Application

8. I have heard the applicant who is present in his case in person and have carefully perused the pleadings and records of this case.

9. At the very outset, the contention of the applicant that one ~~Mrs.~~ Rani Mathur was transferred to Jodhpur in April 1999 and therefore allowed on request transfer to K.V. Raghunathpura

(Narnaul) before completion of five years on her own request,

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cannot be questioned by the applicant for the reason that her transfer order is dated 30.08.2001 and it is neither related to him nor in any way has any affect on his case, thus, the contention of the applicant has no force. As regards the contention of the applicant that Shri R.S. Vashista also did not complete the requisite period of five years at his previous place and he has been transferred in clear-cut violation of the transfer policy just to oust the applicant, firstly, Shri Vashista has already been allowed on request transfer from K.V. Raghunathpura (Narnaul) to Rewari as per the very assertion made by the applicant in the pleadings as well as in the arguments. The position has become irreversible.

10. Secondly, it is a settled position of law that a transfer is an incident of service and is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafidies or infraction of any professed norm or principles governing the transfer as has been held by the Supreme Court in N.K. Singh vs. Union of India & Ors. (1994 (5) SLR 153). In the present case, there is no such ground and thus no interference with the impugned order is called for. In the present case even Mrs. Rani Mathur or Shri R.S. Vashista have not been impleaded as party ^{respondent.} Further there is no allegation of malafide anywhere. As regards the infraction of the transfer policy, the same is directory and does not have any statutory force. Thus in the present case, there is no illegality or infirmity requiring any interference from the Tribunal.

11. As regards the mutual exchange transfer with Shri Kailash Chand who belongs to Rewari, it is the prerogative of the Competent Authority to accept such requests and there is no

malafide against any individual least to say the Competent Authority as regards the non-acceptance of his request for mutual exchange transfer. Here also now another person i.e. Shri Vashista has been allowed the mutual exchange transfer and that position also has become irreversable. On that count also the applicant cannot get any relief.

12. Shri Kailash Chand has already occupied the post at Raghu-nathpura (Narnaul) vice Shri R.S. Vashista as a result of mutual transfer and said Kailash Chand has not been impleaded as a party respondent in this case, thus, this Original Application also suffers from non-joinder of the necessary parties.

13. In view of the what has been said and discussed above, the Original Application does not have any force and the same deserves to be dismissed and the same is hereby dismissed in limine at the stage of admission.


(J.K. KAUSHIK)
Judicial Member

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Kumawat

AT/3.2.203
Copy of Judgement and
Annexures. Sent to Petitioner
+ Respondents No 1 to 3 By
Regd. Post vide Letter
No 26 to 29

Dated 25/2/203

CPK
25/2/03

Part II and III destroyed
in my presence on 14-5-08
under the supervision of
Section officer (I) as per
order dated 27-2-08

NC 24
Section officer (Record)