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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR.**

**Original Application. No. 183/2007**

**Date of order: 29th February, 2008**

**Hon'ble Mr. Tarsem Lal, Administrative Member.**

Smt. Chanda Rathore, w/o late Shri Fateh Singh, aged 52 years, R/o 3-H-9, Madhuban Colony, Basni, Jodhpur. ( Presently posted as UDC at K.V. Pokaran.)

: applicant.

Rep. By Mr. Vivek shah : Counsel for the applicant.

**VERSUS**

1. Kendriya Vidhyalaya Sangathan, through its Commissioner, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110 016.
2. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, (Regional Office), 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur 302 015.
3. Shri Lal Singh gehlot, UDC, K.V. No. 1 (Army) Jodhpur.

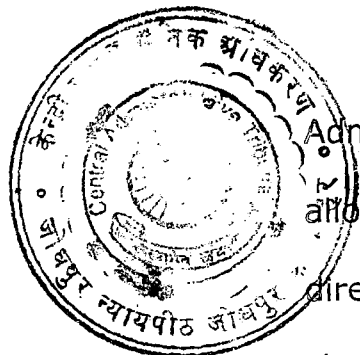
: Respondents.

Rep. By Mr. P.S. Bhati : Counsel for the respondents 1 & 2.  
Mr Devi Lal R. Vyas : Counsel for respondent No. 3

**ORDER**

**Per Mr. Tarsem Lal, Administrative Member.**

The applicant has filed this O.A under Sec. 19 of the Administrative Tribunals Act, 1985, praying that this O.A may be allowed with costs and by issuance of an appropriate order or direction to the respondents Kendriya Vidyalaya Sangathan (KVS for short) to consider the case of the applicant for transfer to Jodhpur, as per her priority in terms of Transfer Guidelines.



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2. The facts as relevant to the case are that the applicant was posted as UDC on 10.11.2004 at KV Pokaran. She submitted an application as request transfer for the year 2007-08, on 19.12.2006. (Annex. A/1). The respondent No.2 after receipt of applications for request transfer in the same category/posts, has awarded 15 marks to the applicant and placed her at priority No. 1 for transfer to Jodhpur. Respondent No. 3 Mr. Lal Singh Gehlot, UDC who was posted at Uttarlai, had also applied for request transfer to Jodhpur and he was allotted 'zero' marks and placed at priority No. 2 (Annex. A/2). As no orders were passed, the applicant approached respondent No.2, who informed her that respondent No. 3 had already been posted to Jodhpur vide order dated 25.05.2007 (Annex. A/4).

3. Thereafter she made a representation dated 20/25-06.2007 (Annex. A/6), wherein she had explained that respondent No: 3 had joined at Uttarlai only on 03.11.2006 and within a period of little over six months, he was again transferred and posted back at Jodhpur, whereas he was in priority No. 2 with 'zero' marks. In that representation the applicant has further pointed out that one UDC Mr. B.N. Sharma, was retiring on 31.07.2007 and in that post she may be transferred. No reply has been given to the applicant. In the meantime the applicant has preferred another representation dated 20.07.2007 (Annex. A/8) stating that in spite of top priority and clear vacancy from 31.07.2007, she was not transferred whereas the respondent No. 3 who had spent more than 18 years at Jodhpur was transferred back to Jodhpur within a



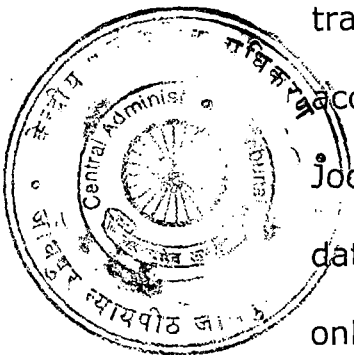
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period of little over six months even though he was having less priority. It has also the same fate as that of the first representation. As the respondents did not reply both the representations, the applicant filed this O.A seeking the relief mentioned in para 1 above.

4. The respondents have filed a detailed reply to the O.A inter alia pleading that the applicant had applied for transfer to a small school at Jodhpur, particularly K.V. Banar, Jodhpur on request basis. The applicant could not be transferred to Jodhpur at the time of annual transfer as the post of UDC at K.V. Banar was not vacant at that time and the vacancy arose only after 31.07.2007, consequent on the superannuation of Sh B.N. Sharma. UDC.

5. The respondents have further explained that under the Transfer Guidelines dated 14.03.2006, one Shri D.S. Bhati, UDC applied for request transfer under LTR category and his choice of station was Uttarlai. As Shri D.S. Bhati was to be adjusted at Uttarlai and since respondent No. 3 had also applied for request transfer to Jodhpur from Uttarlai, both were transferred accordingly. As the applicant had applied request transfer for Jodhpur only and as there was no vacancy till 30.06.2007 (last date of intra region transfer) and the vacancy became available only after 31.07.2007, the applicant request for transfer to Jodhpur was not considered. The respondents have further prayed that the applicant is not entitled to get any relief from this Hon'ble Tribunal in the present O.A and hence the same deserves to be dismissed.



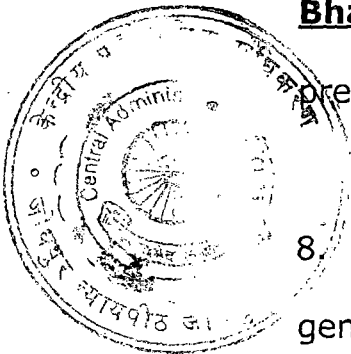


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6. In this case, respondent No.3 has also filed a separate reply wherein he had stated that not only the petitioner (R.3) but the similarly situated persons have also been transferred and the transfer of the petitioner (R.3) is in the larger interest of the KVS as per the availability of work on a particular site or place. The respondent No. 3 has also pleaded that he has been transferred to K.V. No. 1 (Army) Jodhpur, where the strength of students and staff is 2000 and the applicant has asked for transfer to a small school i.e. K.V. Banar, which is having a strength of 250 only. It cannot be pleaded that any statutory right of the applicant has been violated by his transfer to Jodhpur.

7. In support of his above contention, he has relied on the following case law:-

**(i) State of U.P. v. Gobardhan Lal,** [(2004) 11 SCC 402, at page 406] ;(ii) **Shilpi Bose (Mrs) v. State of Bihar,** [1991 Supp (2) SCC 659] (iii) **Union of India v. S.L. Abbas,** (1993) 4 SCC 357, (iv) **National Hydroelectric Power Corpn. Ltd. V. Shri Bhagwan,** (2001) 8 SCC 574. He therefore prayed that the O.A preferred by the applicant may be dismissed.



8. The learned counsel for the parties have been heard. They generally repeated the averments already given in their pleadings. The learned counsel for the applicant emphatically pleaded that the applicant as well as the respondent No. 3 had applied for request transfer under non PCGR category. The applicant was posted at

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Pokaran on 10.11.2004 and she has spent more than three years and she was awarded 15 marks and was placed at priority No. 1 for request transfer for the year 2007-2008, whereas respondent no. 3 was awarded 'zero' marks and was placed at priority No. 2 and the official respondents ignoring her claim transferred respondent no. 3 to Jodhpur. The learned counsel for the applicant pleaded that the Transfer Guidelines have not been followed by the official respondents in its true spirit. He further pleaded that a vacancy is now available at KV, Banar, she may be transferred to KV Banar, Jodhpur.

9. Rival contentions have been heard and the documents placed on record perused carefully. It is seen that an interim order was passed by this Bench of the Tribunal on 17.08.2007 and para 5 of the order reads as under:

" 5. In view of the above discussion, it is clear that the applicant has been working at K.V. Pokaran since 10.11.2004, and she was awarded 15 marks and placed at priority No. 1 whereas the respondent No. 3 was posted to Uttarlai on 03.11.2006 and again he was transferred back to Jodhpur within a short period of six months thought he stayed more than 18 long years at Jodhpur. Her case for transfer to Jodhpur is also recommended by her Principal and the same was forwarded to the Education officer, KVS, Hqrs, New Delhi. One post of UDC has fallen vacant at KV Banar, Jodhpur from 01.08.2007. In the interest of justice the respondents are directed not to fill up the post of UDC at K.V. Banar, Jodhpur by any other candidate till the next date of hearing. "

10. It is observed that the applicant was posted at KV Pokaran on 10.11.2004 and has already spent there more than three years. She had initially applied for her transfer to Jodhpur in December 2006 and she applied for Banar in June 2007 and July 2007, when her request for transfer to Jodhpur was not acceded to. She is a widow and is having responsibilities to maintain her family requirements. Respondent no. 3 had spent more than 18 years at



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Jodhpur and was transferred to Uttarlai where he joined his duties on 03.11.2006 and within a period of a little over six months he has been posted back to Jodhpur. A vacancy is now available at K.V. Banar, Jodhpur with effect from 01.08.2007. It is also seen that the respondents have not replied to two representations filed by the applicant.

11. In view of the above discussion, it is amply clear that the applicant has stayed at Pokaran for more than three years and was placed at priority No. 1 for transfer to Jodhpur. She is a widow and is having family responsibilities. It is also clear from the records that the respondent no. 3, who stayed at Uttarlai only for little over six months had already been transferred to Jodhpur notwithstanding that he stayed for a long period of 18 years at Jodhpur before his transfer to Uttarlai. It is a settled case law that Courts and tribunals should not interfere in the transfer matters, but in this case prima facie rightful claim of the applicant has been denied and injustice done to her. Therefore, in the interest of justice, the respondent No. 3 is directed to transfer and post the applicant as UDC at K.V. Banar, Jodhpur within a period of one month from the date of receipt of a copy of this order. The interim order dated 17.08.2007, stands vacated.

12. The O.A is allowed as above. No costs.

*Tarsem Lal 29/8/08*  
[Tarsem Lal]  
Administrative Member.

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Recd. copy  
for [signature]  
R/S

Received copy  
for [signature] (Nikhil Dongawat)  
3/3/08  
for - Dr. P. S. Bhati

Received copy  
for [signature]  
(Devilal R. J.)  
R/S

Part II and III destroyed  
in my presence on 01/12/14  
under the supervision of  
section officer (I) as per  
order dated 19/8/14  
[signature]  
Section officer (Record)