

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Jodhpur, this the 16th day of January, 2014

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)

Original Application No.370/2013

D.K.Singh s/o Sh. Lal Singh, aged 52 years, r/o Plot No.24, Behind Bungalow No.8, Residency Road, Jodhpur (presently posted as Librarian, K.V. Air Force Station, Uttarlai)

.....Applicant

By Advocate : Mr. K.K.Shah,

Vs.

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. The Dy. Commissioner, Kendriya Vidyalaya Sangathan (Regional Office), 92, Gandhi Nagar Marg, Bazaz Nagar, Jaipur

...Respondents

By Advocate : Mr. Avinash Acharya

Original Application No.387/2013

Mohd. Iqbal Sindhi s/o Shri Mohd Ibrahim Sindhi, aged about 58 years, resident of Inside Siwanchi Gate, Sindhion Ka Bass, Tabutan Ka Chowk, Jodhpur, at present employed on the post of Librarian in KV No.2, AFS, Suratgarh (Rajasthan).

.....Applicant

By Advocate: Mr. J.K.Mishra

Vs.

1. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.

2. Additional Commissioner (ADMN), Kendriya Vidyalaya Sangathan 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur

...Respondents

By Advocate : Mr. Avinash Acharya

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

Since both the OAs have been filed by the applicants seeking transfer to the same post of Librarian at Kendriya Vidyalaya No.2, AFS, Jodhpur, therefore, these are being decided by this common order.

2. Short facts of the case in OA No.370/2013 are that the applicant had filed OA No.487/2011 praying for transfer in any school at Jodhpur as he had completed hard area tenure. The said OA was disposed of with direction to the respondents to consider the case of the applicant as and when a vacancy arises at Jodhpur. On knowing that a vacancy would arise at K.V. No.2, the applicant made representation on 18.3.2013 which was forwarded to respondent No.1 on 26.3.2023. Thereafter respondent No.1 issued memorandum on 9.5.2013 and informed the applicant that there was no vacancy. It was also mentioned that the applicant has sent representation against the retirement vacancies of Librarian at KV No.2 (AFS), Jodhpur w.e.f. 1.9.2013, but it is too early to consider his request for transfer about 5 months in advance, however, his request for transfer to Jodhpur will

be considered as per the KVS transfer guidelines during the Annual Transfer Process, if he has applied for the same. When the applicant was not transferred in the Annual Transfer Process, he made another representation on 2.8.2012 which was forwarded to respondent No.2, but the applicant could not get any relief, therefore, the applicant has filed the OA praying for the following reliefs:-

"In view of above submissions, the applicant most respectfully prays that this original application may kindly be allowed with costs and by issuance of an appropriate order or direction the respondents may please be directed to transfer the applicant at KV No.2 (AFS) Jodhpur with immediate effect as the vacancy of librarian will be available from 1.9.2013 after retirement of Sh. Ashok Mathur on 31.08.13."

3. Short facts in OA No.387/2013 are that applicant was initially appointed as Librarian on 29.9.1986 at KV Air Force Station Makarpur, Vdodara. He belongs to and is a permanent resident of Jodhpur. In the year 1993, he was transferred from Badodara to Beawar and from Beawar to Nashirabad in April displacement and from Nashirabad to HPC Panch Gram Assam on 15.4.2004, in public interest. He was allowed on request transfer from Assam to Pokhran in May, 2007 and lastly posted at Suratgarh where he joined on 24.6.2012 on displacement basis. The applicant has stated that he has been serving at hard station from May 2007 when he was posted at Pokhran and thereafter at Suratgarh where he joined on 24.6.2012 and both these stations fall in the category of Hard Station. He has thus completed five years at Hard Station. He applied for his transfer from Pokhran as well as from Suratgarh to Jodhpur, but he was not given the same since some of the persons were not displaced and they were continued to the policy of displacement. The applicant submitted that it

was not found expedient for the respondents to transfer him since some of the persons were not displaced as per the policy in vogue. Further stated, that he came to know that a post of Librarian was going to fall vacant at KV No. 2 AFS, Jodhpur on 31.8.2013 on retirement of the incumbent holding the post of Librarian, therefore, he filed a representation and also reminder to the respondents but the transfer is not effected since there was a stay on posting and filling up the vacant post of Librarian at KV No.2 in the OA No. 370/2013 filed by Shri D.K.Singh. The applicant has further stated that he is entitled for transfer from Suratgarh to Jodhpur as per his priority, but he is not being transferred due to some extraneous reasons, therefore, he has filed this OA praying for the following reliefs:-

- (i) That the respondents may be directed to post the applicant on the vacant post of Librarian at K V No.2 AFS at Jodhpur, as per the priority list of own request transfer, prepared as per the Transfer Guidelines on the basis of points assigned therein, forthwith and allow all consequential benefits.
- (ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the costs of this application may be awarded."

3. In both the OAs, replies have been filed by the respondents, even after providing last opportunity to the respondents vide order dated 19.12.2013.

4. Heard counsel for applicants in both the OAs and also counsel for the respondents.

5. Counsel for the applicant in OA No. 370/2013, Mr K.K. Shah contended that earlier Shri D.K. Singh moved an Original Application bearing No. 487/2011 which was decided vide order dated 12.04.2012 and in that judgment Hon'ble Single Bench of this Tribunal directed the respondents that as the applicant has undergone hard posting and has urgent personal requirements including that of living together with his wife, also a Government servant, the respondents shall consider the case of the applicant as and when vacancy arises, where the transfer has been desired.

Counsel for the applicant contended that vacancy arose on 31.08.2013 on account of retirement of Shri Ashok Mathur, Librarian and the applicant applied for that vacancy by moving application on 18.03.2013 (Annex. A/2), but, respondent-department informed the applicant that vacancy was to arise on 31.08.2013, therefore, it was too early to consider the representation of the applicant and thereafter applicant moved separate application on 02.08.2013 and the same was forwarded vide Annex. A/6 but the respondent-department failed to consider the representation of the applicant. He contended that the respondent-department intentionally avoided to pass any transfer order on the vacant post of Librarian arising due to retirement of Shri Ashok Mathur, Librarian. Therefore, counsel for the applicant contended that respondent-department be directed to transfer Shri D.K. Singh to the post of fell vacant on account of retirement of Shri Ashok Mathur.

6. Counsel for the applicant, Shri Mohd. Iqbal Sindhi, in OA No. 387/2013 Mr J.K. Mishra contended that the applicant has field this OA for direction to the respondent-department to transfer him as per priority list of own request transfer prepared as per the transfer guidelines on the basis of points assigned therein. He further contended that Shri Mohd. Iqbal Sindhi

has filed the representation Annex. A/5 and at present he is posted at Suratgarh. He also contended that the applicant has also completed hard station posting as he is posted since 2007.

7. Counsel of the respondents, Mr Avinash Acharya, in both the OAs simply contended that the respondent-department is considering to fill up the post by way of transfer, therefore, he does not want to file reply.

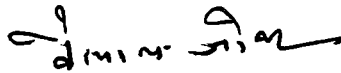
8. I have considered the contentions raised by counsel for both the applicants viz. Mr K.K. Shah & Mr J.K. Mishra as well as counsel for the respondents.

9. Mr D.K. Singh, applicant in OA No. 370/2013, filed earlier OA in the year 2011 and judgment was passed on 12.04.2012 directing the respondents to consider candidature of Shri Singh for transfer as and when vacancy arises. It is admitted fact that vacancy arose on 31.08.2013 on account of retirement of Shri Ashok Mathur but respondent-department waited for some time. Thereafter, Shri Mohd. Iqbal Sindhi, applicant in OA No. 387/2013, also filed representation to transfer him and the respondent-department invited applications in June, 2013 for own request transfers.

Shri Mohd. Iqbal Sindhi submitted his representation on 03.07.2013 (Annex. A/5). It is further admitted fact that first representation filed by Shri D.K. Singh in March, 2013 was not effectively considered and he was simply informed that it is too early to consider his representation whereas respondent-department ought to have considered the representation of Shri D.K. Singh in due course. Therefore, looking to the entire facts and circumstances of the case both the OAs are disposed of with certain directions.

10. Accordingly, both the OAs No. 370/2013 & 387/2013 are disposed of with direction to the respondents to transfer the eligible person on the post available on account of retirement of Shri Ashok Mathur, Librarian keeping in view the order passed by this Tribunal in OA No. 487/2011 dated 12.04.2012 as well as the relevant policy and the rules, within one month from the date of receipt of this order. Further, if any grievance remains to applicants, they are at liberty to approach this Tribunal.

11. Both the OAs stand disposed of in above terms with no order as to costs.



(JUSTICE K.C. JOSHI)
Judicial Member

R/ss