

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

Original Application No.433/2014

Jodhpur this the 02nd day of December, 2014

CORAM :

Hon'ble Ms. Meenakshi Hooja, Member (A)

Chandan Mal Meghwal S/o late Shri Rewant Ram Meghwal, aged about 29 years, VPO Jaitsisar, Tehsil Sardar Shahar, District Churu, Rajasthan-331411.

.....Applicant
(Through Adv. Mr. Manoj Bhandari)

Versus

1. Kendriya Vidyalaya Sangathan (HQ) 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110 016.
2. The Administrative Officer (Establishment), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110 016.
3. The Principal, Kendriya Vidyalaya, Sriganganagar Cantt.
4. Shri Dalip Choudhary, TGT (Science) through office of the Principal, Kendriya Vidyalaya, Sriganganagar Cantt.

.....Respondents

Through Adv. Mr. Avinash Acharya, counsel for respondents No.1to3.
None present for respondent No.4.

ORDER (ORAL)

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 against the order passed by respondent No.2 dated 30.10.2014 (Annexure-A/1) whereby the applicant was ordered to be transferred from Kendriya Vidyalaya Sriganganagar Cantt to Kendriya Vidyalaya, Kathua (Jammu Region) in public interest and has sought the following reliefs:-

"(i) By an appropriate order or direction, the order dated 30.10.2014 (Annexure-A/1) may kindly be declared illegal and be quashed and set aside and the

consequential relieving order dated 10.11.2014 (Annexure-A/6) may also be declared illegal and be quashed and set aside.

(ii) by an appropriate order or direction, the respondents be directed to permit and keep him at Kendriya Vidyalaya, Sriganganagar Cantt and respondents may be directed not to displace him from Sriganganagar Cantt vis-à-vis respondent No.4.

(iii) In the alternative, without prejudice to above, by an appropriate order or direction, the respondents be directed to decide the representation of the applicant and consider his request for posting at nearby place as prayed by him in the representation and till the presentation is decided, the respondents be restrained to displace the applicant from the present place of posting.

(iv) Any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant."

2. Brief facts of the case are that the applicant was initially appointed as TGT (Science) and was ordered to be posted at Kendriya Viyalaya No.2, Itanagar (Arunachal Pradesh) vide order dated 24.11.2008, where he gave his joining (Annexure-A/2). It has been averred in the OA that the post of Arunachal Pradesh falls within the North Western Region and is therefore a tenure posting and considered hard posting and the term of posting is only for a two years for any hard station. But despite that, the applicant was continued beyond two years and was ordered to be posted to Kendriya Vidyalaya Ganganagar Cantt in the year 2012 i.e. vide order dated 08.06.2012 and the applicant gave his joining at Sriganganagar on 15.06.2012. But even prior to the completion of his normal tenure of 5 years at Sriganganagar Cantt in order to accommodate the respondent No.4, Shri Dalip Choudhary, the applicant has been ordered to be posted and transferred again vide order dated 30.10.2014 (Annexure-A/1) to Kendriya Vidyalaya, Kathua (Jammu Region), which is approximately 500 km far away from Sriganganaga. Further, the applicant was ordered to be relieved subsequent to the order of transfer and a copy of the relieving order dated 10.11.2014 of the applicant is at Annexure-A/6. It has been further averred that the order at Annexure-A/1 is not in

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accordance with the transfer policy of the respondent department because as per Regulation 6 of the Policy, if an incumbent is displaced, he cannot be displaced until and unless his existing points are approximately 10 and 10 points are achieved when an incumbent completes 5 years, as for every completed years, two points are granted. The applicant had completed two years and therefore only had four points and he has been transferred against the policy in a premature way and that also to Jammu Region which is far away place from Sriganganagar Cantt. The applicant tried to raise his grievance by making a representation to the Principal and to the higher authorities through proper channel but respondents did not even accept the representation and therefore the applicant submitted his representation through registered post on 18.11.2004 as at Annexure-A/5. The applicant has raised his grievance by way of representation which has not been responded to and as the order of transfer and posting of the applicant is thus against the policy and illegal and hence the applicant has filed the present OA seeking the reliefs as extracted above.

3. During the course of the proceedings today i.e. on 02nd December, 2014, the counsel for the applicant submitted that though the applicant has been relieved vide order dated 10.11.2014 as at Annexure-A/6, but as his representation dated 18.11.2014 (Annexure-A/5) has not been responded to, the OA may be disposed of by directing the respondents to consider and decide his representation at the earliest and in this regard this OA may also be treated as an additional representation.

[Signature]

4. Counsel for the respondents submits that he received the notices on behalf of respondents only on 27.11.2014 and therefore he has not filed the reply and also produced letter No.F.1-17/KV/SGNR/2014-15/7834 dated 10.11.2014, vide which Shri Dalip Choudhary, respondent No.4, has already joined the post at Kendriya Vidyalaya Sriganganagar Cantt on 10.11.2014 where the applicant was working prior to his transfer. .

5. Considered the rival contentions of both the parties and perused the record. Though the reply has not been filed by the respondents, but in view of the fact that the applicant has been relieved vide order dated 10.11.2014 (Annexure-A/6) and the respondent No.4 Shri Dalip Choudhary has already jointed at Kendriya Vidyalaya Sriganganagar Cantt, and considering the submissions made by the counsel for the applicant, it is proposed to dispose of this OA with certain directions.

6. Accordingly, in view of the facts and circumstances of the case, as brought out above, the respondents are directed to consider the representation of the applicant dated 18.11.2014 (Annexure-A/5) and the points raised by the applicant in this OA treating it as an additional representation and decide the same within a month from the date of receipt of a copy of this order.

7. The OA is thus disposed of with no order as to costs.

See—
(MEENAKSHI HOOJA)
MEMBER (A)

R/C
Gouraud
05/12/14

R/C
Bezuh
17/12/014