

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00246/2014

Jodhpur this the 3rd November, 2014

CORAM

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

Shaitan Singh Bhati S/o Late Shri Prithvi Singh Bhati, Aged about 51 years, R/o 119A, Prithvi Kunj, ZSB, Marg No. 29, BJS Colony, Jodhpur District Jodhpur, Rajasthan.

.....Applicant

By Advocate: Mr Rituraj Singh proxy counsel for Mr Pavan Singh.

Versus

1. Kendriya Vidhyalaya Sangthan through its Commissioner, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Commissioner, Kendriya Vidhyalaya Sangthan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. Assistant Commissioner, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. Administrative Officer (Establishment), 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.

.....Respondents

By Advocate : Mr Avinash Acharya.

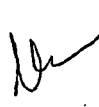
ORDER (Oral)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the orders Annex. A/2 dated 19.06.2014 whereby the applicant has been transferred from Jodhpur to Gandhidham and Annex. A/7 dated 25.06.2014 by which request of the applicant for cancellation/modification of transfer order



has been rejected by the respondent-department i.e. Kendriya Vidhyalaya Sanghathan (KVS).

2. The brief facts of the case, as averred by the applicant and relevant to decide the matter are that the applicant was appointed as Librarian on 23.06.1988 by the KVS and since then he is discharging his duties on the said post. The applicant submitted a transfer application form 2014 (Annex. A/1) on 23.04.2014 and filled up 2 choice stations preferring 339-Jalipa Cantt (District Barmer) & 339 – Uttarlai (District Barmer) respectively against maximum of 5 choice stations in order of preference in the transfer application form. The applicant was shocked that the respondent-department transferred him from KVS Jodhpur to KVS Gandhidham vide order dated 19.06.2014 (Annex. A/2). The respondents issued a notice dated 28.05.2014 (Annex. A/3) for redressal of grievance related to transfer for modification, cancellation etc. through controlling officer via newly created email address. The respondents have laid down the transfer guidelines (Annex. A/4) for the employees with the object to maintain equitable distribution of its employees across all location to ensure efficient functioning of the organization and optimized job satisfaction amongst employees wherein it has been mentioned that "while displacing an employee in such manner, an effort would be made to post such an employee to a least inconvenient location against a clear vacancy" but the respondents have transferred the applicant to a location causing high level of inconvenience despite the fact that the applicant has given his choice of location and the post is also lying vacant at Jalipa Cantt. District Barmer.



The transfer guidelines at Annex. A/1 prescribes Coronary Artery Disease as valid reason for seeking transfer on medical grounds and the applicant is a patient of coronary artery disease and he is under regular treatment for the same. The applicant had lastly been undergone the CT Coronary Angiography on 29.04.2013 (Annex. A/5) and is entitled to be considered for transfer on medical grounds as per transfer guidelines. The applicant made a request for modification of transfer order (Annex. A/2) to the extent that he may be transferred to vacant post of Jalipa Cantt. Barmer District instead of Gandhidham but the same has been rejected through email dated 25.06.2014 (Annex. A/7), therefore, the applicant has filed this OA seeking following relief(s):

- I. By an appropriate writ order or direction, the Transfer Order dated 19.06.2014 (Annex. A/2) may kindly be quashed and set aside qua the applicant.
- II. By an appropriate writ, order or direction, the communication dated 25.06.2014 (Annex. A/7) through email rejecting the request for cancellation/modification of transfer order may kindly be quashed and set aside.
- III. By an appropriate writ, order or direction, the respondents may kindly be directed to transfer the applicant at the choice station submitted by him i.e. Jalipa Cantt. (Station code-339) District Barmer or the respondents may kindly be directed to permit the applicant to continue at the present place of posting i.e. Kendriya Vidhyalaya Jodhpur.
- IV. By an appropriate writ, order or direction, the respondents may kindly be directed to adhere to the guideline No. 7 and Annexure-I as prescribed in the Transfer Guidelines For Teachers and Others upto Assistant while transferring the applicant.
- V. Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and



circumstances of the case may kindly be passed in favour of the applicant.

- VI. Writ petition filed by the applicant may kindly be allowed with costs.

3. In reply, the respondents have denied the claim of the applicant and stated that the transfer of the applicant is in public interest (on displacement) from KV No. 1 Army Jodhpur to KV Railway Colony, Gandhidham vide Transfer Order dated 19.06.2014 in terms of para 9 and 11 (a) of existing Transfer Guidelines of KVS on the basis of displacement count of the applicant calculated as per para 6 of the transfer guidelines taking into consideration the Transfer Application Form (Annex. A/1) annexed by the applicant. The applicant is working in KV No. 1 Army Jodhpur since 08.10.2008 and has been transferred to KV Railway Colony, Gandhidham to accommodate the request of one Shri Narpat Singh, Librarian, KV AFS, Jaisalmer who was working there from 10.04.2003. The displacement counts of the applicant have been prepared on the basis of data/information supplied by the concerned Principal and as per the instruction given in existing transfer guidelines of KVS and the displacement count of the applicant is 10 at Jodhpur Station equal to minimum displacement counts prescribed for the Annual Transfer of the year 2014-15. The post at KV Jalipa Cantt, Barmer has since been filled up by modification of order of other displacee, therefore, the applicant could not be adjusted and transferred there. It has been further averred by the respondents that the applicant has submitted a copy of CT Scan Report dated 29.04.2013 and averred that he is a patient of coronary artery disease and he is entitled to be



considered for transfer on medical grounds, however, he did not mention any detail or submitted any medical certificate with regard to his coronary artery disease in 'Transfer Application Form 2014 dated 23.04.2014(Annex. A/1) so as to claim transfer on medical grounds. The transfer of the employee is as per the policy guidelines and therefore, the respondents prayed to dismiss the OA.

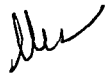
4. Heard both the parties. Counsel for the applicant contended that vide Annex. A/1 dated 23.04.2014, he made a request for transfer from Jodhpur to Jalipa Cant as first preference and his second preference for Uttarlai but vide transfer order dated 19.06.2014 Annex. A/2, he was transferred to Gandhidham. He further contended that as per point 4 of guidelines dated 28.05.2014(Annex. A/3), the case of the applicant ought to have been considered if the vacancy on the date of the issue of the order was available at the given/choice place and the fact that one Shri G.L. Meena was transferred to Jalipa vide order dated 01.07.2014 shows that the post was vacant on the date of his transfer i.e. 19.06.2014. He further referred to guidelines Annex. A/4 especially regarding request for transfer on medical grounds on the basis of which he made his representation dated 20.06.2014 Annex. A/6 about his cardiac problem but his application was rejected vide Annex. A/7 dated 25.06.2014, just after five days. Counsel for the applicant further submitted that the applicant has a serious health problem of coronary heart disease and has had a relapse and therefore, prayed for cancellation of his transfer to Gandhidham (Annex. A/2) and that the



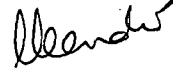
respondents be directed to transfer the applicant to Jalipa Cantt or Uttarlai or retain him at Jodhpur.

5. Per contra, counsel for the respondents submits that the applicant was transferred to Gandhidham as per the transfer policy and at the time of filing of his request dated 23.04.2014 vide Annex. A/1, the applicant himself did not give any medical ground and subsequently his representation dated 20.06.2014 (Annex. A/6) was justifiably rejected as by then the post of Jalipa Cantt Barmer was already filled up and his case is not covered under the policy guidelines. Counsel for the respondents further submits that the applicant has already joined at Gandhidham in pursuance to his transfer order of 19.06.2014 (Annex. A/2) and this was not denied by counsel for the applicant.

6. Considered the rival contentions and also perused the record. In view of the submission made by counsel for the applicant that the applicant suffers from heart/coronary disease and has had a a relapse and the fact that he has already joined at Gandhdham in pursuance of order dated 19.06.2014 (Annex. A/2), it is intended to dispose of this OA with certain directions. Accordingly, OA is disposed of with the directions that the applicant shall in addition to his representation dated 20.06.2014, keeping in view of guidelines as at Annex. A/4, file a fresh request for his transfer on medical grounds to the competent authority indicating his choice of place within one month from the date of receipt of this order. Thereafter, respondents shall consider and decide the representation of the applicant, so filed, within a month of receipt of the



representation. Thereafter, if any grievance remains to the applicant, he may agitate his matter at an appropriate forum, if so advised.



(MEENAKSHI HOOJA)
Administrative Member

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