

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00149/2015

Jodhpur, this the 22nd day of May, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Hukmi Chand Nagda S/o Shri Chuni Lal, aged 59 years, posted as TGT (Sanskrit), KV No.2 (AFS), Jodhpur.

.....Applicant

By Advocate: Mr. K.K. Shah.

Versus

1. Kendriya Vidyalaya Sangthan through Commissioner, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.
2. Dy. Commissioner, Kendriya Vidyalaya Sangthan (Regional Office), 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015.

.....Respondents

By Advocate : Mr. Avinash Achariya.

ORDER (Oral)

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 against the order No.F.No.11046/2014-15/KVS(HQ)/Estt-II/C/1993-96 dated 09.03.2015 (Annexure-A/1) prayed for the following relief(s):-

" 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 impugned order dated 09.03.2015 (Annexure-A/1) may kindly be quashed and set aside and the applicant may please be directed to be posted at Udaipur in place of clear vacancy created by transferring Shri Rajawat vide Annexure-A/5.

Any other order favourable to the applicant may also kindly be passed."

transferring him to any of the KVs in Udaipur. This OA came to be disposed of with the following directions vide order dated 28.01.2015(Annexure-A/3):

“(i) The applicant is directed to file a fresh representation before the respondent authority raising each and every point regarding his transfer to his home town and putting his relevant claim within 15 days from the date of receipt of a copy of this order and this OA shall also be treated as an additional representation.

“(ii) Thereafter the respondents shall consider the representation filed by the applicant and decide the same keeping in view of the provisions of LTR policy as well as other provisions under the Transfer guidelines including para-13, within a period of one month from the date of receipt of the representation.”

It has been further averred that the applicant submitted a copy of the OA and the representation to the respondent No. on 03.02.2015 (Annexure-A/2) But the respondent No.1 did not allow the prayer of the applicant and dismissed the representation vide Annexure-A/1 on 09.03.2015 on the ground that no vacancy was available to be displaced at Udaipur and also it may affect adversely the studies of the students if any transfer is made during the session. On receipt of said order, the applicant once again made a representation dated 13.03.2015 (Annexure-A/4) and suggested that in alternative the applicant to accommodate at Udaipur. It has been further averred that surprisingly and shockingly vide order dated 26.03.2015 (Annexure-A/5), Shri Chandra Prakash Rajawat was transferred and relieved on the same day to join as PGT (Hindi) at KV Naliya and Shri Rajawat was TGT (Sanskrit) and was promoted in Hindi subject. Thereby vacancy of TGT (Sanskrit) at KV No.1, Pratap Nagar, Udaipur has been created which is still lying vacant and now the ground of non-availability of vacancy at Udaipur does not survive and there is no impediment in posting the applicant to fill up the vacancy of TGT (Sanskrit) at Udaipur , which

to know of the order dated 26.03.2015 (Annexure-A/5), the applicant once again preferred a representation on 27.03.2015(Annexure-A/6) and further averred that the applicant is retiring from service on 31.01.2016 and has barely 7 months remaining for service and if at this juncture the applicant is not posted at Udaipur, it will cause irreparable loss to him and it has been further averred that the applicant has already applied for annual transfer. It has been further averred that the applicant has a vested right to be posted at Udaipur as three years prior to date of retirement and the applicant has been making representations when two and half years were left for his retirement and therefore he has prayed the OA to be allowed.

3. Heard. Counsel for the applicant submits that just a little over seven months time is now left from the retirement of the applicant but vide Annexure-A/1 dated 09.03.2015, the case of the applicant for transfer to Udaipur was not considered by the respondent department only on account of non-availability of vacancy at Udaipur. However, now there is a clear cut vacancy of TGT (Sanskrit) at KV No.1 Udaipur in view of transfer of Shri Rajawat to KV AFS Naliya on promotion as PGT (Hindi) and he has been relieved on 26.03.2015 as may be seen from Annexure-A/5. Earlier the applicant has also submitted a representation dated 13.03.2015 (Annexure-A/4) and now after the occurrence of vacancy at Udaipur, he immediately submitted another representation dated 27.03.2015 (Annexure-A/6), which is still pending before the respondent department.

4. Counsel for the respondents submits that though he has not filed the

respondent department in the month of June, and the case of the applicant will also be considered accordingly.

5. Considered the submissions and contentions of the counsels and perused the record. It is noted that the applicant has just a little over seven months time left from the retirement as he is retiring on 30.01.2016 and further as seen from Annexure-A/5 the vacancy of TGT (Sanskrit) has occurred on 26.03.2015 from relieving of the Shri Rajawat to another Vidhyalaya on promotion as PGT (Hindi). The applicant has already submitted his representation dated 27.03.2015 (Annexure-A/6) as his earlier request was not accepted vide memo dated 09.03.2015 (Annexure-A/1) because of non-availability of vacancy of TGT (Sanskrit) at Udaipur now his request needs to be considered on priority both because there is vacancy and also transfers are made in June, as submitted by the counsel for the respondents.

6. In view of the position and looking to the facts and circumstances of the case, it is proposed to dispose of this OA with certain directions.

7. Accordingly, the respondents are directed to consider and decide the case of the applicant for transfer to Udaipur on priority keeping in view that the applicant is retiring from the respondent department within just over seven months and that with reference to their own order dated 09.03.2015 (Annexure-A/1) the vacancy of TGT Sanskrit has occurred at Udaipur on 26.03.2015 (Annexure-A/5) and the applicant has already filed his representation dated 27.03.2015 (Annexure-A/6). The respondents are

further directed to consider and decide the case of the applicant within a period of 20 days from the date of receipt of a copy of this order.

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



(MEENAKSHI HOOJA)
Administrative Member

Rss

R/C
Rajani Kant
For 12.12.15 Shah
Atr
26/8/15

~~Lead~~
~~Sub~~
26/8/15