

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.421/2005

Wednesday this the 13th day of July 2005.

CORAM:

HONBLE MR. K. V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER.

Jyolsna K.P.,
Post graduate Teacher (Mathematics),
Kendriya Vidyalaya, Adoor. Applicant

(By Advocate Shri K.P.Dandapani)

vs.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, B Institutional Area,
Shaheed Seet Sing Marg.
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, IIT Campus, Chennai -600 006.
3. The Principal, Kendriya Vidyalaya, Adoor,
Pathanamthitta District, Kerala.
4. The Principal,
Kendriya Vidyalaya No.2,
Binagudi, North Bengal.
5. Shri R. Sreekumar,
Post Graduate Teacher (Maths),
Kendriya Vidyalaya No.2, Puri,
North Bengal. Respondents

(By Advocate M/s Iyer & Iyer (R. 1-4))

(By Advocate Ms.Rinci Antony T & Soniya M(R5)

The application having been heard on 13.7.2005, the Tribunal on the same day delivered the following:

ORDER

HONBLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant who is presently working as PGT(Maths) at K.V.Adoor is displaced by transferring her to K.V.Binagudi No.2 in the place of 5th respondent. The 5th respondent who had been working in North-East station, had been transferred to Adoor

displacing the applicant. The averment in the O.A. is that, the applicant though she has not completed the minimum tenure period of 5 years in the present station and is entitled to continue at Adoor itself based on the guidelines (A2) dated 30.5.05. Her grievance is that, if the applicant is ordered to join at Binagudi at West Bengal, it will adversely affect her family life. Aggrieved she has filed this O.A. seeking the following main reliefs:

1. call for the records leading to transfer order, F.S-1(D/PGT (Maths)/2005 KVS.Estt.dated 30.5.2005 of the 1st respondent and set aside the same, as far as it transfers the applicant from Kendriya Vidyalaya, Adoor to K.V.No.2, Binagudi and posting the 5th respondent at Adoor.
2. direct the 1st respondent to consider Annexure A3 representation favourably, taking into account the certificate, Annexure A2 annexed therewith,
3. direct the respondents 1 to 4 not to relieve the applicant from 1st shift of K.V.No.2, Adoor, pending disposal of the Original Application.

2. The official respondents have filed a counsel statement contending that, the contention of the applicant that he has not completed the minimum period of service in the present station, is not tenable under clause 10(2) of the guidelines and the request transferee is to be accommodated displacing the person who is having shortest stay in the station. The applicant has been identified as the teacher who is having shortest stay and the order of transfer has been made accordingly. There is no challenge against the Transfer Guidelines particularly clause 10(2). It is also contended that, there is no provision that the lady teachers should be accommodated within a radius of 500 kms. of their home station. Such a claim can be made by a lady teacher only in clear vacancies. The difficulties stated in the O.A. are strictly personal and has no legal relevance to the contest and the O.A. to be dismissed. The 5th respondent has also filed a statement contending that he has tried several times for getting a transfer earlier. But due to change in the policy and various other reasons he could not get a transfer to his choice and his mother is all alone at home and she is suffering from various ailments and he was

working in a North-East region for more than 3 years and is entitled for a transfer as per guidelines and therefore, the applicant has no right to challenge the order.

3. The applicant has filed a rejoinder contending that, at K.V.Kalpetta, a vacancy is likely to arise in this Academic Year itself and the papers are all processed in favour of it and the feasibility can be explored in accommodating the applicant at Kalpetta on that vacancy.

4. Mr. KP Dandapani, learned counsel appeared for the applicant and M/s Iyer & Iyer appeared for the respondents 1-4 and Ms. Rinci Antony, appeared for R-5.

5. We have heard the learned counsel for the parties and also given due consideration to the arguments and material placed on record. Admittedly the applicant has been transferred to 3000 kms away from the present station and the personal difficulties that have been narrated in the O.A. is that the applicant's first posting was at Khaprail which is very close to Binagudi, and she has been working there for the last six years. At Adoor she joined only in the year 2003. The applicant's husband is working under the State of Kerala and it is not possible to get a transfer to him to the place where the applicant is being posted. The applicant was got married in the year 1996 and not blessed with any baby and she is undergoing treatment for infertility at "Life Line Hospital for Mother and Child", Adoor. This transfer order has been issued under Clause 10(2) transfer guidelines(A4) on displacement. The contention that the 5th respondent was trying for a transfer from North-East for several times cannot also to be side lined.

6. On going through the entire aspects, we are of the considered view that, the applicant can be permitted to make a fresh representation to consider her for transfer and to accommodate in the K.V. Kalpetta against a clear vacancy, in view of the fact that a vacancy is likely to arise in the near future at Kalpetta.

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7. In the interest of justice, we direct that the applicant shall make a comprehensive representation stating all the grievance to the 1st respondent with special reference to the vacancy that may arise in Kalpetta or any other vacancy that may be pointed out by the applicant within a time frame of two weeks and on receipt of the same the respondents shall consider the representation and pass appropriate orders as expeditiously as possible. Till the representation is disposed of the applicant shall not be compelled to join at Binagudi. In the light of what is stated above, the interim order dated 8.6.05 is vacated and the 5th respondent is allowed to join duty.

8. O.A. is disposed of as above. In the circumstance no order as to costs.

Dated the 13th July 2005


N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER


K.V.SACHIDANANDAN
JUDICIAL MEMBER

IV