

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 435/2011

Dated this the 20th day of October, 2011

C O R A M:

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

Anjali Devi, W/o .Pratap Chandra Menon(late),
Post Graduate Teacher (Economics)
Kendriya Vidyalaya/CRPF, Pallipuram
R/o No. 2-B-2 "Sky Line Symphony Apartments"
Vazhuthacaud, Thiruvananthapuram - 695 014. ... Applicant

(By Advocate Mr. T.C. Govindaswamy)

Vs

1. The Commissioner,
Kendriya Vidyalaya Sangathan
18-Institutional Area, Shaheed Jeet Singh Marg
New Delhi-110 016

2. The Education Officer,
Kendriya Vidyalaya Sangathan
18-Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110 016

3. The Principal, Kendriya Vidyalaya, Akkulam
Thiruvananthapuram-695 035.

4. Smt.Rajalakshmi S,
Post Graduate Teacher(Economics)
Kendriya Vidyalaya No.II, (Shanti Nagar)
Vasco Da Gama, Goa - 403 802. ... Respondents

(By Advocate M/s Iyer & Iyer (R1-3)

The Application having been heard on 13.10.2011 the Tribunal delivered the following:

ORDER

The applicant, a Post Graduate Teacher (Economics) under the respondents, presently working at KV CRPF/Pallipuram, is challenging Annx. A-6 order transferring the 4th respondent to KV Akkulam, in preference to the applicant and in violation of the transfer guidelines.

2. It is alleged by the applicant that the official respondents have amended/modified the transfer guidelines from time to time. According to the latest orders produced as Annxs.A1&A2, every employee has to fill up the transfer application form showing their choice station and submit the same to the competent authority.
3. Brief facts of the case as stated by the applicant are that she a widow and a diabetic patient staying in her own house at Vazhuthacaud, Trivandrum is finding it difficult to travel to her present place of posting at Pallipuram. When she came to know that a vacancy is likely to arise at K.V, Akkulam, she submitted her application for transfer showing her first choice station as Akkulam, station code 1806. Accordingly the respondents published Annx.A4, the annual request applications for transfer for 2011-12 of the applicant, in their web-site. It is averred that she joined at Pallipuram on 9.4.2003 as TGT and later on promoted as PGT on 5.11.2007 and was retained at the same station. It is further submitted that as per the transfer guidelines published by the respondents, the lower cut off points for effecting request transfer is fixed at 6 or above for determining in the order of priority. It is stated that the applicant was under the impression that she would be considered for transfer to K.V, Akkulam as per the transfer guidelines. To her utter surprise respondent No. 4 was transferred to K.V, Akkulam in preference

A handwritten signature consisting of a stylized 'M' and a horizontal line.

to the applicant. It is further submitted that on enquiry it was learnt that the priority obtained by the 4th respondent is 9 whereas the applicant secured 11 points. It is also averred that the applicant gathered information about the 4th respondent from web-site and as per the seniority list as on 1.1.2009 (Annex.A8), she was appointed only on 17.10.2008 as PGT in KV Vasco Da Gama. It is alleged that as per the existing instructions/guidelines as also in terms of appointment, a newly appointed person cannot seek transfer until he/she completes a tenure of three years at the place of initial posting. It is alleged that as per the transfer guidelines the transfer of the 4th respondent to K.V, Akkulam overlooking the request of the applicant is illegal and contrary to guidelines and instructions.

4. The official respondents contested the OA by filing their reply. They submit that the services of KVS employees are liable to be transferred to any KVS at any time on short notice on organisational reasons and administrative exigencies. The personal inconvenience of staff has little importance over administrative exigencies and public interest. The guidelines do not confer upon the employee a legally enforceable right to a particular place of choice. They further submitted that the new transfer guidelines have come into force w.e.f 1.4.2011. It is stated that the transfer of the 4th respondent from Vasco Da Gama to KV AFS Trivandrum was made as per the transfer guidelines. In reply to the allegation of the applicant that the 4th respondent has less transfer count than the applicant, they have explained that KVS has developed a software programme and prepared KV wise and station wise priority lists to effect transfer against available vacancy. Transfer orders as per KV wise priority list was first drawn in view of the limited choice given by the employees who have opted for specific KVs for transfer and then station wise priority list

71

was operated to give wider choice to the employees. Resultantly, a few employees have got their request transfer against their choice station in spite of less transfer counts than the employees having higher transfer count.

5. The applicant filed rejoinder to the reply reiterating the facts as stated in the OA. It is further submitted that the transfer of the 4th respondent is not in public interest as the transfer count 9 itself shows that she has not completed 3 years at KV No.2, Vasco, Goa. Moreover in Kerala no such transfer request form was supplied to the employees who had not completed 3 years of service in a station. Thus apparently wrong details in respect of the 4th respondent might have been fed in the computer. To support her contention she says that employee code of the 4th respondent is shown as 21364 in Annx.A6 where as the correct employee code is 54798. In a identical case of one P.M.Thomas in OA 538/2011, the respondents have transferred him to a place of his choice cancelling the transfer order issued in favour a person with lesser transfer count.

6. I have heard learned counsel for the parties and perused the records.

7. When the case came up for hearing on 24.5.2011, this Tribunal directed to maintain status quo as such, the impugned order, Annx.A6 was not given effect to.

8. The undisputed fact is that the 4th respondent has not completed 3 years service in a station i.e. Vasco Da Gama on her appointment as PGT (Economics). There is no contention that she was eligible to submit a request for transfer to KV AFS Akkulam as per the present transfer policy guidelines.

11

The respondents have taken a decision to fix a tenure of 3 years, to become eligible for transfer from one KVS to another in the interest of staff welfare. The respondents have conceded in their reply statement that due to some bug in the application software or due to entry of wrong details a few employees with lesser transfer count got transferred to their choice station as against those with higher transfer count, who were denied their choice station. The applicant's case is one among them. In the case of Shri P.M. Thomas, the applicant in OA 538/2011, such a mistake was set right by the respondents by granting transfer to the place of his choice. Same action is warranted in this case also, as the applicant cannot be made to suffer for no fault of hers. She has a transfer count of 11 point as compared to the 4th respondent who secured a transfer count of 9.

9. In view of the foregoing, the OA succeeds. In the interest of justice and balance of convenience, I direct the respondents to rectify the mistake committed in data entry and issue the transfer order to the applicant to KV AFS Akkulam, Trivandrum, at the earliest, at any rate within 4 weeks from the date of receipt of a copy of this order. The OA is allowed to the above extent.

No costs.

(Dated the 20th October, 2011)


K. NOORJEHAN
ADMINISTRATIVE MEMBER

kkj