

**CENTRAL ADMINISITRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NOS. 479/2005 , OA 484/2005,
O.A.485/2005, OA 486/2005
OA 487/2005, OA 490/2005, OA 492/2005,
OA 509/2005 & OA 512/2005

Wednesday this the 27th day of July, 2005

CORAM

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

O.A.No.479/2005:

Mercy Paul, W/o Rajan Skaria, aged 39
TGT(Malayalam)
Jawahar Navodaya Vidyalaya, Kottayam,
Vadavathur Post
residing at Staff Quarters, Jawahar Navodaya
Vidyalaya, Kottayam. Applicant

(By Advocate Mr. K.P.Dandapani)

V.

1. Union of India, represented by the Secretary,
Ministry of Human Resources & Development,
Department of Education,
New Delhi-110 001.
2. The Commissioner,
Navodaya Vidyalaya Samithi,
Indira Gandhi Stadium,
IP Estate, New Delhi.2.
3. The Deputy Commissioner,
Navodaya Vidyalaya Samithi,
Indira Gandhi Stadium,
IP Estate, New Delhi-2.
4. The Principal,
Jawahar Navodaya Vidyalaya,
Kottayam.

Respondents

(By Advocate Mr. M.K.Damodaran (R.2-4))

OANo. 484/05

C.D.Joy, S/o Daniel,
T.G.T. (Malayalam)
Jawahar Navodaya Vidyalaya,
Chennithala, Alleppey District
residing at Chettukuzhiyil Veedu,
Parakode PO. Applicant

(By Advocate Mr. K.P.Dandapani)

V.

- 1 Union of India, represented by the Secretary
Ministry of Human Resources and development,
Department of Education,
New Delhi.
- 2 The Director, Navodaya Vidyalaya Samiti,
New Delhi.
- 3 The Joint Director (Administration)
Navodaya Vidyalaya Samiti,
New Delhi.
- 4 The Principal,
Jawahar Navodaya Vidyalaya,
Chennithala,
Alleppey District.
- 5 The Principal, Jawahar Navodaya Vidyalaya,
Betul, Madhya Pradesh. ...Respondents

(By Advocate Mr.MK Damodaran (R.2to5)
Mr.Thomas Mathew Nellimootil (R.1))

O.A.No.485/2005

A.Subha, W/o Suresh Babu,
Trained Graduate Teacher (Malayalam)
Jawahar Navodaya Vidyalaya,
Calicut. ... Applicant

(By Advocate Mr.K.P.Dandapani)

V.

- 1 The Commissioner, Naodaya Vidyalaya Sangathan, New Delhi.
- 2 The Commissioner, Navodaya Vidyalaya Sangathan, New Delhi.
- 3 The Joint Director (Administration) Navodaya Vidyalaya Samiti, New Delhi.
- 4 The Principal Jawahar Navodaya Vidyalaya, Calicut.
- 5 The Principal, Jawahar Navodaya Vidyalaya, Jhansi (UP). ... Respondents

(By Advocate Mr.M.K.Damodaran)

O.A.No. 486/2005

A.K.Sreelatha, aged 44 years,
W/o Haridas,
Trained Graduate Teacher (Malayalam)
Jawahar Navodaya Vidyalaya,
Vechoochira,
Pathanamthitta,Kerala. ... Applicant

(By Advocate Mr. K.P.Dandapani)

V.

- 1 The Union of India, represented by the Secretary, Ministry of Human Resources Development, Department of Education New Delhi.
- 2 The Commissioner, Jawahar Navodaya Vidyalaya Sangathan, New Delhi.
- 3 The Joint Commissioner, Jawahar Navodaya Vidyalaya Sangathan, New Delhi.
- 4 The Principal Jawahar Navodaya Vidyalaya, Vechoochira, Pathanamthitta.

- 5 The Principal, Jawahar Navodaya
Vidyalaya, Bareilly,
Uttar Pradesh. ... Respondents

(By Advocate Mr. M.K.Damodaran (R.2to5)
Mr.P.Parameswaran Nair (for R1)

O.A. No.487/2005

Lizamma Mathew, W/o T.J. Joseph,
Trained Graduate Teacher (Malayalam)
Jawahar Navodaya Vidyalaya,
Kottayam, now residing at
Nattassery, SH Mount PO,
Kottayam. ... Applicant

(By Advocate Mr. K.P.Dandapani)

V.

- 1 The Union of India, represented by the
Secretary, Ministry of Human Resources
and Development, Department of
Education, New Delhi.
- 2 The Commissioner,
Navodaya Vidyalaya Samithi,
New Delhi.
- 3 The Joint Commissioner,
Navodaya Vidyalaya Samithi,
New Delhi.
- 4 The Principal,
Jawahar Navodaya Vidyalaya,
Kottayam.
- 5 The Principal,
Jawahar Navodaya Vidyalaya,
Tonk. (Rajasthan). ... Responents

(By Advocate Mr. M.K.Damodaran (R2to5))

O.A.No.490/2005

K.Sudhakaran Nair S/o E.Krishna Pillai,
Trained Graduate Teacher (Malayalam)
Jawahar Navodaya Vidyalaya,

Neryamangalam, Ernakulam District.
Residing at Kunnu Bunglow,
Chengal PO, Aryanad
Trivandrum.695542.

.... Applicant

(By Advocate Mr. K.P.Dandapani)

V.

- 1 The Union of India, represented by the
Secretary, Ministry of Human Resources
and Development, Department of Education,
New Delhi.1.
 - 2 The Commissioner,
Navodaya Vidyalaya Sangathan, New Delhi.
 - 3 The Joint Commissioner, Navodaya Vidyalaya
Sangathan, New Delhi.
 - 4 The Principal, Jawahar Navodaya Vidyalaya,
Kottayam.
 - 5 The Principal,
Jawahar Navodaya Vidyalaya,
Jaunpur, Uttar Pradesh.
- ...Respondents

(By Advocate Mr.M.K.Damodaran (for R.2to5)
Mrs.Aysha Youseff for R.1)

O.A.No..492/05

Smt.Roasanna Sebastian,
W/o N.F.Baby, Trained Graduate Teacher,
(Malayalam), Jawahar Navodaya Vidyalaya,
Palakkad residing at Namthakat, Mugnangal PO
Pala, Kottayam District.

... Applicant

(By Advocate Mr. K.P.Dandapani)

V.

- 1 The Union of India, represented by the
Secretary, Ministry of Human Resources and
Development, Department of Education,
New Delhi.
- 2 The Commissioner, Jawahar Navodaya Vidyalaya

Samithi, New Delhi.

3. The Joint Commissioner, Jawahar Navodaya Vidyalaya Samithi, New Delhi.
4. The Principal, Jawahar Navodaya Vidyalaya Malampuzha, Palakkad.
5. The Principal, Jawahar Navodaya Vidyalaya, Sitapur, Uttar Pradesh. Respondents

(By Advocate Mr.M.K.Damodaran (R2to5))

O.A.No.509/2005.

1. C.V.Anitha, W/o V.P.Jayadevan,
Trained Graduate Teacher (Malayalam)
JNV resident of quarter No.10
JNV Quarters, Malampuzha, Palakkad.
2. K.R.Kumari, W/o Sahrudayan KK
Trained Graduate Teacher (Malayalam)
Jawahar Navodaya Vidyalaya,
Palayad Nada PO, Maniyur, Vadakara,
Calicut residing at Quarter No.16,
JNV Quarters, Palayad Nada,
Maniyoor, Vadakara Calicut. ...Applicants

(By Advocate Mr.K.P.Dandapani)

V.

1. The Union of India, represented by the
Secretary, Ministry of Human Resources
Development, Department of Education,
New Delhi.
2. The Commissioner, Jawahar Navodaya
Vidyalaya Samithi, New Delhi.
3. The Joint Commissioner, Jawahar Navodaya
Vidyalaya Samithi, New Delhi.
4. The Principal, Jawahar Navodaya Vidyalaya,
Palayad Nada PO, Maniyur, Vadakara,
Calicut.
5. The Principal, Jawahar Navodaya Vidyalaya,
Minicoy, Lakshadweep.

- 6 The Principal,
Jawahar Navodaya Vidyalaya, Palakkad.
- 7 The Principal, Jawahar Navodaya Vidyalaya,
Jhalawar, Rajasthan. Respondents

(By Advocate Mr. M.K.Damodaran (for R 2 to 7))

O.A.No. 512/2005

S.Preethi, W/o P.N.Prasanna Kumar,
TGT (Malayalam), JNV, Kottarakkara
Quilon, residing at Kozhisseril
Kochumadam, Pada North,
Karunagapally. Applicant

(By Advocate Mr. K.P.Dandapani)

v.

- 1 The Union of India, represented by the
Secretary, Ministry of Human Resources
Development, Department of Education,
New Delhi.
- 2 The Commissioner, Jawahar Navodaya
Vidyalaya Samithi, New Delhi.
- 3 The Joint Commissioner, Jawahar Navodaya
Vidyalaya Samithi, New Delhi.
- 4 The Principal, Jawahar Navodaya Vidyalaya,
Quilon.
- 5 The Principal, Jawahar Navodaya Vidyalaya,
US Nagar, Uttar Pradesh. ... Respondents

(By Advocate Mr. M.K.Damodaran (for R 2 to 5))

These applications having been heard on 27.7.2005, the Tribunal on
the same day delivered the following:

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicants in these Original Applications are Trained



Graduate Teachers (Malayalam) working in the schools under the Jawahar Navodaya Vidyalaya Samiti and are aggrieved by their transfers outside the region. They had challenged individual orders of transfer as well as the general policy guidelines issued by the Jawahar Navodaya Vidyalaya Samiti in pursuance of which the transfers have been effected. Since the grounds raised by the applicants in the above Original Applications and the relief sought for are identical, these are being disposed of by the following common order. The main submission of the applicants is that there are altogether 8 Regions under the Vidyalaya and the applicants belong to the Hyderabad Region and at the time of joining there was no transfer liability. As the Trained Graduate Teachers (Malayalam) were on Regional Cadre without any prospects for promotion as Post Graduate Teacher/Vice Principal/Principal, in 1999 a Review Committee considered the transfer policy and a policy was formulated on 12.11.1999. Apprehending transfers the applicants along with similarly placed Teachers had approached this tribunal in OA 532/00 and 561/00. As per a common order dated 8.8.2001 the Tribunal allowed these OA s setting aside the impugned notification which was challenged in O.P.25991/01. The Hon'ble High Court remitted the matter for a fresh look and the O.A.s were allowed again and challenged in OP 2388/02. On the basis of the observations of the Hon'ble High Court in the above O.P a notification was issued on 25.2.03 bringing an All India Cadre of third language teachers and

imposing transfer liability. The above notification dated 25.2.03 was challenged again in OA 252/03. The Tribunal dismissed the O.A upholding the validity of the notification in order dated 22.11.04. The applicant along with others approached the Hon'ble High Court by filing W.P(C) No.34875/04 which was dismissed. Now the order has been further challenged before the Hon'ble Supreme Court in S.L.P. Civil No.11895/05. The transfer orders have been issued by the second respondent after the re-opening of the schools. It is further contended that even if the transfer liability is conceded there are other T.G.Ts working in the region who are senior to the applicants and seniors should have been transferred first. It is also pointed out that the applicants are transferred to Hindi speaking regions and since the applicants are not knowledgeable in Hindi it would be very difficult for them to carry out their duties and their inter actions with the students will be affected.

2. In the reply statement the respondents have brought out the background of the introduction of the transfer policy and pointed out that the main objective of the Navodaya Vidyalaya Samiti is the implementation of the National Education Policy which aims at achieving of national integration through the three language formula. The Navodaya Vidyalaya Samiti is an autonomous body under the Ministry of Human Resources Development and has 495 schools spread in 27 States and 7 Union Territories and the territory is divided into eight regions. The teachers are appointed on regional

by

basis and transferred to other regions where these regional languages are taught as a third language. The sanctioned strength of TGT (Malayalam) of the Hyderabad Region is 50 and the posts sanctioned for Hyderabad Region is 27 and the remaining 23 posts are sanctioned for Northern Regions. Initially the seniority of these teachers was maintained by the Hyderabad Region and now it is maintained on an All India level. Clause 10 of the appointment order issued to these teachers carries with it the liability to serve in any part of India. In 13 Navodaya Vidyalaya in Hindi speaking areas Malayalam has to be taught as the Regional Language and these Malayalam teachers have to promote the rich traditions of Kerala and that of Malayalam language and literature to the students intending to study Malayalam as their regional language.

3. Referring to the contentions of the applicants in the O.As the respondents have submitted that the Navodaya Vidyalaya Samiti had taken up the matter in appeal on a decision of this Tribunal in OA 532/2000 setting aside the orders of transfer outside the region. A Division Bench of the Hon'ble High Court as per judgment dated 24.10.2002 in OP No.2388/02 held as follows:

"We see no grounds at all to interfere with the order of the Tribunal under Article 227 of Constitution of India, as there is no error of jurisdiction or perverse finding. At least after the receipt of the judgment, if the petitioners wanted to implement the resolution of Executive Committee they could have amended the rules or the Director could have passed an order as per the powers given to him as per rules, instead of challenging the order of the Tribunal before this Court. Even now they can amend the regulations as executive committee has

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accepted the recommendations of review committee or Director can pass an order making language teachers in All India Cadre."

The above judgment has become final and the applicants cannot re-agitate the issue as it is barred by res judicata. The Samiti had then passed orders in obedience to the directions of the Hon'ble High Court in the Original Petition on 25.2.03 making the third language teachers an All India Cadre. The applicants and others again approached this Tribunal filing OA 252/03 and this Tribunal after considering all the contentions dismissed the O.A as per judgment dated 22.11.04 (Annexure.R2(a)). All the contentions raised now were elaborately dealt with in the judgment and therefore the present application is barred by constructive res judicata.

4. On the point regarding seniority of the applicants, it is submitted that except one candidate who is disabled and who is exempted from transfer, all persons have been transferred according to the seniority. Therefore no seniors to the applicants are remaining undisturbed from the region. The transfers are implemented on a rotational basis and persons who have long standing are transferred first and the service rendered outside the region is also considered while effecting transfers. Further it is also mentioned that except in cases of specific allegations of malafides or violation of statutory rules, the Courts and Tribunals shall not interfere with the orders of transfer and the decision to that effect of the Hon'ble Supreme Court reported in (2001) 5SCC 508 and (2003)4 SCC 104 have been relied




upon.

5. The applicants have filed a rejoinder mainly reiterating the same grounds as in the O.A and also stating that an S.L.P has been preferred before the Hon'ble Supreme Court and that the Vidyalaya Samiti is taking a partisan attitude towards only TGT (Malayalam) Teachers by not giving them any option and not resorting to counselling and also seeking an extension of the interim orders on the ground that the matter is pending consideration before the Hon'ble Supreme Court.

6. When the matter came up earlier, status quo orders directing that the applicants shall not be disturbed was given and since it was contended by the applicants that a stay order is being obtained from the Hon'ble Supreme Court breathing time was also granted till 27.7.2005.

7. We have heard Smt.Sumati Dandapani, learned counsel for the applicants and Shri M.K.Damodaran, Mr.Thomas Mathew Nellimootil, Mr.P.Parameswaran Nair, Mrs.Aysha Yousef, learned counsel for respondents. It was submitted by the learned counsel for the applicants that the matter was shown in the advance list of the Hon'ble Supreme Court and notice has been issued in the prayer for interim relief on 25.7.2005 and hence the matter may be kept pending and Interim Orders extended. It is contended on the respondents' side that the question regarding All India transfer liability of Regional Language Teachers has already been decided by




this Tribunal in the judgment dated 22.11.04 in OA 252/03 which has been confirmed by the Hon'ble High Court of Kerala. Therefore, there is no illegality in transferring them to a different region and the transfers have been effected strictly following the policy guidelines and therefore, there is nothing more to be agitated in this matter before the Tribunal. It was also submitted that the Samiti is finding it difficult to streamline the posting of Regional Language Teachers and the academic year has already commenced and hence the interim orders may be vacated.

8. We have considered the submissions of the learned counsel on either side and perused the records. The applicants have assailed their individual transfer orders which have been issued in pursuance of the policy laid down in the notification of the Navodaya Vidyalaya Samiti dated 25.2.03. This order was passed on the basis of the finding of the Hon'ble High Court in OP 2388/02 holding that the Navodaya Vidyalaya Samiti can transfer third language teachers after making them an All India Cadre. Paragraph 9 of the judgment has been quoted in detail supra. The above directions have become final as contended by the respondents. Again in the second round of litigation before this Tribunal this order dated 25.2.03 was upheld by this Tribunal and the Writ Petition filed in the Hon'ble High Court against this order was also dismissed. Therefore, this question regarding All India Transfer liability has attained finality in two rounds of litigation. We are, therefore, in agreement with the contentions of



the respondents that the challenge to the transfer orders in pursuance of the policy enunciated in the notification dated 25.2.03 is barred by res judicata. Now the applicants have brought to our notice that the matter has again been taken before the Hon'ble Supreme Court but the mere fact of filing an S.L.P before the Hon'ble Supreme Court is no ground for us to stop the transfers and prevent the respondents from implementation of the existing policy guidelines which hold the field as on date.

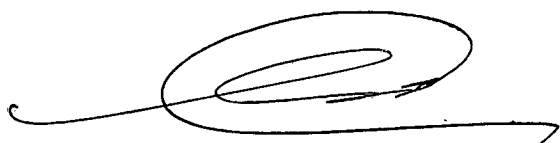
9. The second contention of the applicants regarding violation of guidelines on the basis of non-consideration of seniority etc. is also not found to be correct in the light of the submissions made by the respondents that seniority has been observed and all the seniors to the applicants have also been transferred and no discrimination has been shown. The applicants' side also during the arguments did not pursue this contention. We also take note of the fact that the objective of these schools is mainly to implement the policy of national integration and encourage the teaching of regional languages and naturally the language teachers have to be recruited from the regions where the language is spoken and unless they are liable to transfer outside the region, this policy of languages studies cannot be implemented. Needless also to say that the Hon'ble Supreme Court has taken a consistent view that Courts and Tribunals should not interfere with the domain of administrative jurisdiction in which policies regarding transfer/appointments etc. lie.



and on this count also we are of the view that the O.As deserve no consideration.

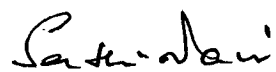
9. In the light of above facts and legal position, the prayer of the applicants for interference with the orders of transfer has no merit and the Original Applications are accordingly dismissed without any order as to costs.

Dated this the 27th day of July, 2005



K.V.SACHIDANANDAN
JUDICIAL MEMBER

S.



SATHI NAIR
VICE CHAIRMAN

C.O. 881.m.b. Damodara

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.422/2004

Wednesday this the 14th day of July, 2004.

C O R A M

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

I.V.Prasada

Trained Graduate Teacher (Kannada)

Jawahar Navodaya Vidyalaya

Periya, Kasargode District

Applicant

[By Advocate Mrs. N.Sobha]

Vs.

1. The Union of India represented by the Secretary, Ministry of Human Resources Development Department of Education, New Delhi.

2. The Director, Navodaya Vidyalaya Samithi, New Delhi.

3. The Deputy Director, Navodaya Vidyalaya Samithi, Hyderabad Region, Padmaranagar, Secunderabad - 25

4. The Principal, Jawahar Navodaya Vidyalaya, Periya, Kasargode District

Respondents

[By Advocate Mr.M.K.Damodaran]

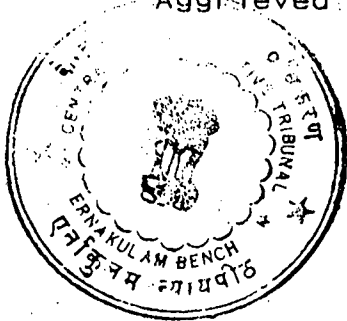
The application having been heard on 22.06.2004, the Tribunal on 14.07.2004 delivered the following :

O R D E R

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant presently working as Trained Graduate Teacher in regional language (Kannada) is working under the 4th respondent at Kasargode. The applicant is governed by Navodaya Vidyalaya Samithi Recruitment Rules, 1995. The applicant averred in the O.A that all Group 'A' and 'B' will be borne on respective All India cadres and the seniority of

the employees borne on Regional cadre will be maintained at the regional basis. The applicant's appointment as Trained Graduate Teacher (Kannada) is only on regional basis and it is totally against the rules transferring the applicant from Hyderabad Region to Bhopal Region. By impugned order the applicant has been transferred from one region to another by Annexure A-1 order dated 18.05.2004. Earlier also the applicant was transferred to Bihar and the applicant approached the Hon'ble High Court by filing O.P.No.12244/98 and the Hon'ble High Court stayed the operation of the transfer order in view of the fact that the applicant's appointment is in Hyderabad Region. As per the directions of the Hon'ble High Court the 2nd respondent cancelled the transfer and allowed him to continue at Kasargode. The 2nd respondent issued circular dated 25.02.2000 (Annexure A-2) regarding annual transfers drive on request basis. By going through Annexure A-2 it is evident that any transfer as per Annexure A-2 is only on the basis of request. Applicant had not given any request for a transfer from Hyderabad to any other region. These were challenged in different O.As by the affected parties and this Court in O.A. 532/2000 stayed the impugned order by a common order upholding that the Trained Graduate Teachers are not taken out of the regional cadre and placed in the All India cadre as provided for in sub-rule (v) of Rule 2 by a general or specific order of the Director. Any order outside is made unavoidable in the exigencies of service which is not the case in these cases. Aggrieved by the impugned transfer order from Kasargode to



Jabalpur (Hyderabad region to Bhopal region), this O.A is filed seeking the following reliefs:-

- i, Call for the entire records leading to Annexure A-1 and set aside the same to the extent to which it affect the applicant.
- ii, Declare that the applicant is entitled to continue as Trained Graduate Teacher (Kannada) at the 4th respondent school.
- iii, Pass such others as deemed fit in the facts and circumstances of the case.
- iv, Grant the applicant the costs of the O.A.

2. The respondents had filed a detailed reply statement contending that in the earlier proceedings this Tribunal set aside the transfer which was confirmed by the Hon'ble High Court. The Division Bench directed that by issuing appropriate notification bringing the Regional Language Teachers in the All India Cadre or by framing suitable transfer policy the Samiti can transfer the Regional Language Teachers. Accordingly, the Commissioner had issued Notification No.15-18/2000-NVS-Estt dated 25.02.2003 bringing of Third Language (Regional Language) Teachers on All India cadre and shall have all India transfer liability vide Annexure R-2(a) notification. It is, therefore, submitted that the Navodaya Vidyalaya follows a three language policy and the above policy is for attaining the objective of the National Integration by introducing Regional Language of the linked migrated States. In order to achieve the laudable objectives, language teachers of South Indian languages like Malayalam, Tamil, Kannada and Telegu are recruited from Hyderabad Region and posted to States like Uttar Pradesh,

Madhya Pradesh, Chathisghar, Bihar, Rajasthan, Utharanchal etc. All the students of the Jawahar Navodaya Vidyalayas in the Hindi speaking States have to compulsorily learn any one of the South Indian Languages including Kannada as Third Language right from Class VI to X. It is, therefore administrative exigency in posting the Regional Language Teachers of the Southern Regional Language in other regions to cater the needs of the students in the Vidyalayas of Hindi speaking States.

3. ^{Vidyalaya} The Navodaya Samiti has revised the transfer policy in this regard providing the transfer of Regional Language teachers on completion of 5 years of service in the Region of their original posting to a different region on a rotational basis. The applicant is transferred in terms of the revised transfer policy (Annexure R-2(b) dated 12.11.1999. The contention of the applicant that he is transferred to accommodate a Malayalam Language Teacher is absolutely without any merits. The inter regional rotational transfer policy for the Regional Language Teachers have a clear nexus with those objects of the Navodaya Vidyalaya Samiti to be achieved by the establishment of the Navodaya Vidyalaya at the national level spread over the entire length and breadth of the country. The formulation of transfer policy suitable for administration lies within the ambit of executive decision making and not upto the Courts or Tribunals to decide whether or not for administrative reasons and to serve certain clearly stated set of objectives. Since Annexure R-2 (a) notification bringing the Regional Language Teachers on respective All India Cadre



with All India transfer liability and Annexure R-2 (b) transfer policy sanctions the Samiti to transfer the Regional Language Teachers, there is no discrimination and is in exigencies of the administration and in public interest.

4. I have heard Mrs.N.Sobha, learned counsel for applicant and Mr.M.K.Damodaran, learned counsel for respondents. I have gone through the pleadings, materials placed on record and given due consideration for the same. Learned counsel for applicant submitted that the inter regional transfer of an employee/teacher could be made only on request. The applicant's family consists of his wife and 8 month old daughter and therefore much prejudice will be caused in case the applicant is transferred to a different place. Learned counsel for respondents on the other hand argued that the applicant has suppressed the material facts and he is relying on old transfer policy Annexure A-2, which is not in existence. Even in an earlier occasion, when the applicant came challenging the earlier transfer the Hon'ble High Court has made it clear that by issuing appropriate notification bringing the Regional Language Teachers in All India cadre or by suitably framing the transfer policy will make it possible the transfer of Regional Language Teachers.

5. I heard the learned counsel for both the parties and the applicant has not filed rejoinder to rebut the averments in the reply statement. It is true that the Hon'ble High Court in O.P.No.12244/98 upholding the decision of this Tribunal, staying the operation of transfer order to a

different region. In furtherance of Annexure A-2 this transfer policy was not effected. In the stay order of the Hon'ble High Court it is averred that there was a specific direction that by issuing appropriate notification bringing the Regional Language Teachers in All India cadre the Samiti can transfer the Regional Language Teachers. Therefore, I am of the view that the earlier order of this Court and that of High Court is not effective in view of the fact that as per directions of the Hon'ble High Court, Annexure R-2 (a) and R-2(b) has been notified. This a revised policy on transfer matters of Regional Language Teachers and in conformity with the orders of the Hon'ble High Court. In fact, these two orders has not been mentioned by the applicant in the O.A. On the other hand, the applicant relied on a stale notification Annexure A-2, which is the transfer guidelines on request transfer which is not in existence. Annexure R-2 (b) dated 12.11.1999 which governs Clause 8 is as under :-

Third Language (Regional Language) Teachers on completion of five years of service in the region of their initial posting may be transferred to a different region on a rotational basis."

This is fortified by Annexure R-2 (a) notification dated 25.02.2003 which reads as follows :-

In exercise of powers conferred under Clause 2 (v) of the Navodaya Vidyalaya Samiti's notification No.F.2-29/94-NVS(Admn) dated 22.06.1995, it is hereby ordered that all Third Language (Regional Language) Teachers shall henceforth be borne on respective all India cadres and shall have all India transfer liability."

6. On perusal of the said Rules, memorandum I am of the view that these transfer policy for the Regional Language Teachers have a clear nexus with those objects of the Navodaya Vidyalaya Samiti at the national level spread over the entire length and breadth of the country. The objects for which these notifications are issued is based on a revised transfer policy providing that the Regional Language Teachers on completion of five years of service in the region of their initial posting may be transferred to a different region on a rotational basis. Based on the facts that all the students of the Jawahar Navodaya Vidyalayas in the Hindi speaking States have to compulsorily learn any one of the South Indian Languages including Kannada as Third Language right from Class VI to X. This is based on the laudable objective of National Integration by introducing Regional Language of the linked migrated States. Since the cadre of language teachers has made all India transfer liability as per the policy, I am of the considered view that the transfer order of the applicant cannot be held as violative of the constitutional guarantee of equal treatment subject to reasonableness or can it be held by any malafide consideration. To fortify the above finding I rely on the decision of the Hon'ble Supreme Court/State Bank of India Vs. Anjan Sanyal & Ors, (2001) 5 SCC 508 and Public Services Tribunal Bar Association Vs. State of U.P. and another, (2003) 4 SCC 104 which lays down the above dictum. Apart from that, it is clear that the transfer has been affected in public interest. The Hon'ble High Court in Rajan Vs. Directorate General of Police, 1999 (2) KLT 673 has made clear that such transfers cannot be interfered by Courts/Tribunals. Apart from that, the Hon'ble Supreme Court

in Union of India Vs. S.L.Abbas reported in 1993 (2) LLJ, 626 has laid down the dictum that "who and where should be transferred is a matter of the appropriate authority" to decide." Since no malafides has been pleaded nor any violation of guidelines could be seen, I am of the view that the impugned order cannot be interfered with.

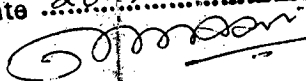
7. In the circumstances, the Original Application deserves no merit and it is to be dismissed. Accordingly, I dismiss the Original Application with no order as to costs. The interim order passed on 09.06.2004 will automatically be vacated.

Dated, the 14th July, 2004.

Sd/-
K.V.SACHIDANANDAN
JUDICIAL MEMBER

CERTIFIED TRUE COPY

Date 20-2-2004



Deputy Registrar