

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 489/2003

Dated Thursday this the 3rd day of July, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

C.N.Rahulan
Principal
Kendriya Vidyalaya, Palakkad.
Residing at T.C.II 3104 (4)
S.C.T.Nagar, Pattom Palace P.O.
Thiruvananthapuram.

Applicant

(By advocate Mr.K.P.Dandapani)

Versus

1. The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016.
2. The Deputy Commissioner (Personnel)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi.
3. Bhanumoorthy
Principal
Kendriya Vidyalaya
Rubber Board, Kottayam.
4. The Principal
Kendriya Vidyalaya
Manendragarh
Madhya Pradesh.

Respondents.

(By advocate Mr.Thottathil B.Radhakrishnan)

The application having been heard on 3rd July, 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The subject matter of this OA is transfer of the applicant from Kendriya Vidyalaya No.I, Palakkad to Kendriya Vidyalaya, Manendragarh in Madhya Pradesh. The applicant seeks the following reliefs:

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- (i) Call for the records leading to Annexure A1 and set aside the transfer made against the applicant transferring him from Palakkad to Manendragarh.
- (ii) Direct the respondents 1 & 2 to retain the applicant at Palakkad itself since he has only 3 years and 7 months to retire from service.

2. When the matter came up for hearing on admission earlier, the applicant filed MA No.502/03 pointing out that on 19.6.2003 the applicant had filed his application for voluntary retirement with effect from 10.7.03. It was also stated that he had requested the authorities to waive the advance notice of 3 months. The application for voluntary retirement is apparently pending before the first respondent. In reply to the MA, the learned counsel for the respondents filed a statement enclosing a copy of the letter written by the applicant to the Assistant Commissioner of Kendriya Vidyalaya Sangathan, Regional Office, Chennai, to the effect that in the light of the discussion the applicant and the said authority had on the matter of his voluntary retirement, this OA be treated as withdrawn on the understanding that his request for voluntary retirement be accepted without joining the Kendriya Vidyalaya, Manendragarh on transfer.

3. The respondents' stand is that the applicant should withdraw the OA in order that the the authorities might process and take a decision on his application for voluntary retirement. At the time of hearing, the learned counsel of the applicant submitted that if the application for voluntary retirement is processed and a decision is taken thereon, without insisting on the applicant getting relieved and joining at Manendragrath on transfer, he (the applicant) would immediately withdraw the OA. Learned counsel for the respondents, on the other hand, would state that withdrawal of the OA should precede the consideration

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of and a decision on the applicant's request for voluntary retirement. Both the counsel have, however, agreed that the OA can be disposed of on the available pleadings including those made in the MA and the reply thereto by way of counsel's statement.

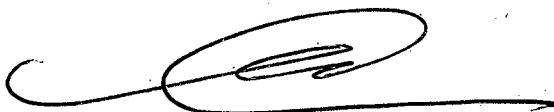
4. We have gone through the records and have carefully considered the facts. It is true that the applicant's request for voluntary retirement has nothing to do with his transfer to Manendragarh. However, at human level, the nexus between the applicant's transfer and his decision to put in his papers for voluntary retirement is clearly discernible. In view of this, we consider that it behoves the authorities concerned to process the applicant's request for voluntary retirement in accordance with rules and take a decision on that expeditiously so as to relieve the applicant of any other agony including transfer to Manendragarh if that serves his purpose and if it does not cause any burden or injury to the organization. From the submissions made by the learned counsel for the respondents and the applicant, we understand that the applicant is eager to retire voluntarily from the organization and that the authorities are seized of the matter. The only question is which event - withdrawal of OA or acceptance of application for voluntary retirement - is to take precedence. Having regard to the balance of convenience and the human problem involved, we consider that we would be failing in our duty to do justice if we shy away from directing the respondents to process the applicant's request for voluntary retirement in accordance with the procedure laid down in that behalf before effecting the impugned transfer to Manendragarh. There is a provision for waiver of notice if the

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authorities deem it fit, and it can help decide the issue expeditiously.

As the applicant is eager to retire voluntarily from the organization and to withdraw the OA if he is permitted to retire voluntarily as requested for, we consider it appropriate to dispose of this OA by directing the respondents to pass appropriate orders on the request of the applicant for voluntary retirement as expeditiously as possible and that until such time, the applicant shall be retained in the station where he still has been before the impugned order was passed. With these observations, the OA is disposed of. We make it clear that this would not prejudice the applicant's right to re-agitate the matter on merits, if need be. No costs.

Dated 3rd July, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

aa.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER