

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.544/2001.

Friday this the 8th day of March 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

H.Zubaida Beevi,
W/o P.V.Sulaiman Rawther,
Primary Teacher,
Kendriya Vidyalaya, Pattom,
Thiruvananthapuram.

Applicant

(By Advocate Shri KP Dandapani)

Vs.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. The Deputy Commissioner (Finance),
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016.
3. The Education Officer,
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016
4. The Principal,
Kendriya Vidyalaya, Pattom,
Trivandrum-695 004.
5. The Principal,
Kendriya Vidyalaya,
Ernakulam-682 020.
6. Susamma Varghese,
Primary Teacher,
Kendriya Vidyalaya,
Ernakulam-682 020.

Respondents

(By Advocate Shri Thottathil B. Radhakrishnan)


The application having been heard on 8th March 2002
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant a Primary Teacher, Kendriya Vidyalaya, Pattom, Trivandrum who is to retire on superannuation on 21.5.03 has filed this application challenging her transfer made by the impugned order dated 21.6.01 (A1) from Kendriya Vidyalaya, Pattom, Trivandrum to Kendriya Vidyalaya (KV for short), Ernakulam. It is alleged in the application that as per the transfer guidelines a Teacher who has less than two years to retire is not to be transferred. It is also alleged that even if the 6th respondent is required to be accommodated in KV, Trivandrum as one permanent vacancy available there is being operated by engaging contract Teachers, displacement of the applicant is not required. The applicant has also challenged the impugned order on the ground that the fixation of cut off date as 31st March (31/3) for reckoning two years period for exemption from relief, is arbitrary and irrational. With these allegations, the applicant seeks to have the impugned order A-1 set aside to the extent it affects her.

2. The respondents 1 to 5 in their reply statement contend that the transfer guidelines do not stipulate that a teacher who has less than two years service should not be transferred but only states that such a Teacher would be entitled to 20 points in regard to posting to a choice station. Regarding the cut off date 31st March, it is stated that the date was fixed having regard to the academic year commencing from 1/4 to 31/3. Regarding the contention of the applicant that one permanent vacancy of Primary Teacher in KV, Trivandrum is operated by engagement of contract



teachers, it is contended that the purported vacancy has been filled prior to the issue of the impugned order. The respondents contend that the application is devoid of merit and is liable to be dismissed.

3. After perusing the entire pleadings and the material placed on record and on hearing the learned counsel on either side, I am of the considered view that the applicant who has only less than two years of service to retire counting from the date of impugned order A-1 should not have been disturbed. Though the cut off date mentioned in A-1 order is 31/3, since the Kendriya Vidyalayas reopen only on 1st of June, the applicant who is to retire on 21.5.2003 should not have been disturbed. The 6th respondent who is to be accommodated in the place of the applicant as per the impugned order although was served with notice has not appeared to contest. Under these facts and circumstances, I am inclined to hold that the applicant is bound to succeed in this application.

4. Application is allowed and the impugned order is set aside to the extent it affects the applicant. No costs.

Dated the 8th March, 2002.



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the order NoF.2-1(D)/2001/KVS(E-IV) dated 21.6.2001 issued by the 2nd respondent, signed by 3rd respondent.
2. A-2: True copy of Guidelines.
3. A-3: True copy of the representation dt.25.6.2001 submitted by the applicant before the 1st respondent.
4. A-4: True copy of certificate issued in favour of the applicant by Dr.K.S.S.Nair, Cardiologist, Trivandrum.
5. A-5: True copy of the Amended Transfer Guidelines approved by the Chairman, Kendriya Vidyalaya Sangathan.
6. A-6: True copy of the order of this Hon'ble Tribunal in OA 1245/1999 dt.18.2.2002.

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