

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.Nos.545/11, 548/11, 549/11, 550/11, 552/11,553/11,
554/11, 555/11 & 575/11

Tuesday, this the 5th day of March, 2013

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

O.A 545/11

Sunitha K
W/o.K Gopalan
Trained Graduate Teacher (Hindi)
Kendriya Vidyalaya/Post Trust/Willingdon Island
Kochi – 682 003
Residing at: Young Quarters Road
Panangad (P.O), Pin – 682 506
Ernakulam

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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, Port trust
Willingdon Island
Kochi – 682 003
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus
Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

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O.A 548/11

Rajani P
W/o Jayaseelan
Post Graduate Teacher (Chemistry)
Kendriya Vidyalaya No.1, Calicut
Residing at: Erumooli Parambil
Farook College P.O
Calicut – 673 632

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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 No.1
Calicut – 673 001
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office,
I.I.T Campus
Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 549/11

T.K Sheena
W/o Suresh
Primary Teacher
Kendriya Vidyalaya
Kalpetta
Residing at Guru Sree
Kalpetta North, Wayanad

...Applicant

(By Advocate Mr.P.Ramakrishnan)

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Versus

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

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 550/11

Jayanthi K.S
W/o.Bhagyanath
Trained Graduate Teacher (Art Education)
Kendriya Vidyalaya/Kadavanthra/Ernakulam
Residing at: No.51/915-A,
"Thambu", Friends Lane
Janatha, Vyttila
Cochin – 682 019

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

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,
Kadavanthra
Ernakulam, Cochin – 682 020
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus

Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 552/11

Jyolsna K.P
W/o.Prabhakaran
Post Graduate Teacher (Maths)
Kendriya Vidyalaya No.1, Calicut
Residing at: kammili Parambu
No.38/106, West Hill P.O,
Calicut – 673 005

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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 No.1
Calicut – 673 001
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus
Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 553/11

Jijimol P.M
W/o.T.L Joseph
Trained Graduate Teacher (Hindi)
Kendriya Vidyalaya No.1/Naval Base/Kochi – 682 004
Residing at: Thannittamackal
Mullapuzhachal (P.O), Muvattupuzha
Ernakulam District

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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 No.1
Naval Base
Kochi – 682 004
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus
Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 554/11

Ambilimol P.M
W/o.Manoj N.G
Post Graduate Teacher (Economics)
Kendriya Vidyalaya No.II
Naval Base, Kochi – 682 004
Residing at: Passport Office Staff Quarter No.2/9
Perumanoor P.O, Cochin – 682 015

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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 No.II,
Naval Base
Kochi – 682 004
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus
Chennai – 600 036

...Respondents

(By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 555/11

Bindu K.M
W/o.Sureshkumar
Post Graduate Teacher (Biology)
Kendriya Vidyalaya No.1, Calicut
Residing at: 'SREELAKSHMI", 20/1246-B
Panniankara, Kallayi Post
Calicut - 3

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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 No.1
Calicut – 673 001
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
I.I.T Campus
Chennai – 600 036

...Respondents

✓ (By Advocate Mr.Vineeth for M/s.Iyer & Iyer)

O.A 575/11

Rekha C
 W/o Mahesh
 Post Graduate Teacher (Comp.)
 Kendriya Vidyalaya, Malappuram
 Residing at: Devaki Nilayam
 Palayad Post
 Thalassery – 670 661

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

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,
 Malappuram – 676 505
4. The Assistant Commissioner
 Kendriya Vidyalaya Sangathan
 I.I.T Campus
 Chennai – 600 036

...Respondents

(By Advocate Mr.V.V.Asokan for M/s.Iyer & Iyer)

This application having been heard on 05th March 2013, this Tribunal on the same day delivered the following :-

ORDER

1. In all the above Original Applications, the challenge is against transfer order issued vide order dated 17.06.2011 and relieving order followed thereon in respect of all the applicants. By an interim order, in all these cases, the execution of the impugned transfer order in so far as it relates to the applicants, was directed to be stayed and the applicants are, as on date, serving at the

same place of their earlier posting.

2. The grievance of the applicants in all these cases are that they are all female employees and they have been subjected to transfer to hard stations in the north-east area and no stipulation exists for such compulsory posting. It is understood that such transfers were effected in respect of those who had not reached 40 years of age. The grounds for challenge, apart from the fact that the guidelines do not specifically indicate as to who should be posted to hard areas, also include grounds which vary from applicant to applicant. Hence, the reliefs sought for in all these cases are to the extent of quashing and setting aside the impugned transfer order, relieving order and to direct the respondents to allow the applicants to continue at their respective place of posting.

3. The respondents have contested the O.A. They have stated that the guidelines had been prepared and the same was executed without any discrimination. They also stated that as regards hard stations, there had been paucity of staff and considering that aspect, attempt was made to shift staff members who had attained 40 years of age. They also stated that there cannot be any overriding privilege for female staff members in matters of transfer. It was also submitted that a servant holding a transferable post has no vested right to remain posted at one place or other of his/her option. References were made of the Apex Court in some cases (State of Madhyapradesh vs. SS Kourav and others reported in AIR 1995 SC 1056, Union of India and others vs SL Abbas (AIR 1993 SC 2444), Union of India vs HN Kirtania (1989 3 SCC 445), Shilpi Bose and others vs. State of Bihar and others (1991 2 Suppl. 659) and Abani Kanta Ray vs. State of Orissa and others (1995 Supp (4) SCC 169).

Counsel for the applicants argued that all the cases can be disposed

of by a single common order since all are identical in all respect. He has submitted that the cases can be closed with a direction to the respondents to consider the case of the applicants taking into account the current scenario. Some of the applicants might have crossed 40 years of age and, therefore, need not be shifted to hard duty stations. Some of the members can be sent to nearby places where vacancies are available. Three choice stations may be obtained from them and they may be posted to one of them.

5. Counsel for the respondents submitted that the applicants cannot agitate against the transfer as a matter of right. It was, therefore, decided to shift the persons with 40 years of age without any gender discrimination to north east called hard area. As such, there is no illegality in the transfer order.

6. Arguments were heard and documents perused.

7. By now, 24 months have passed since the earlier transfer order got stayed. During this period a few would have crossed 40 years of age. A few might have, as per guidelines, come under the exempted category for transfer under the normal rotational transfer. Taking into account all these aspects, it would be only appropriate that the cases of the applicants be considered ignoring the earlier transfer order and keeping in mind their limited rights to continue in the same place (on account of children and spouse grounds etc.). The respondents may pass suitable transfer orders, which may be effectuated during summer vacation.

8. Accordingly, all these O.As are disposed of with a direction to the respondents to consider the cases of transfer, if necessitated and if transfer is inevitable, as far as possible such transfer be effected, during vacation and

posting of the applicants be within a reasonable distance from the present place of posting. It is made clear that no opinion on the merits of the matter has been expressed.

9. However, till such time, the aforesaid decision is arrived at and acted upon, needless to mention that the applicants be not shifted from the present posting. Accordingly, these Original Applications are disposed of.

(Dated this the 5th day of March, 2013)


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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