

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Common Order in O.A.Nos.556/2001 & 846/2001.

Wednesday this the 10th day of October 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

O.A.556/2001:

R.Bindu, W/o S.Ullas,
Post Graduate Teacher (Physics),
Kendriya Vidyalaya, Trichur. Applicant

(By Advocate Shri P.Ramakrishnan)

Vs.

1. Union of India, represented by
its Secretary, Ministry of
Human Resources Development,
New Delhi.
2. The Commissioner,
The Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016.
3. Deputy Commissioner (Admn),
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016.
4. The Principal, Kendriya Vidyalaya,
Puranattukara, Thrissur.
5. Bindu Nelson, Post Graduate Teacher
(Physics), Kendriya Vidyalaya Mhow,
Madhya Pradesh. Respondents

(By Advocate Shri Thottathil B. Radhakrishnan(R.1-4)
(By Advocate S/Shri TC Ulahannan and John Joseph(R-5)

O.A.846/2001:

Bindu Nelson, W/o Nelson,
Post Graduate Teacher (Physics),
Kendriya Vidyalaya, Trichur. Applicant

(By Advocate S/Shri John Joseph and T.C.Ulahannan)

Vs.

1. Union of India represented by its
Secretary, Ministry of Human
Resources Development, New Delhi.

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2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
3. The Deputy Commissioner (Admn),
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
4. The Principal,
Kedriya Vidyalaya Puranattukara,
Trichur.
5. R.Bindu, W/o Ullas,
Post Graduate Teacher, (Physics),
residing at Krishna,
Chittilappally Trichur. Respondents

(By Advocate Shri Thottathil B. Radhakrishnan)

The application having been heard on 10th October 2001
the Tribunal on the same day delivered the following:

O R D E R

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

As the facts of these two cases are closely related to each other, they are being considered and disposed of by this common order.

2. The applicant in O.A.556/01, a Post Graduate Teacher, (Physics) working in Kendriya Vidyalaya, Trichur has filed this application challenging the order dated 25.6.2001 (A1) to the extent to which she is transferred by that order from Kendriya Vidyalaya, Trichur to Kendriya Vidyalaya Mhow (Madhya Pradesh). It is alleged in this application that the applicant was in the advanced stage of pregnancy at the time when the impugned order was issued, that as per the transfer guidelines the applicant and her husband, who is also working as Post Graduate Teacher in Physical Education under the Kendriya Vidyalaya Sangathan are entitled to maximum priority for posting in a place and that though they have applied for transfer to Kerala before the impugned order was issued the request was not considered

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and the impugned order was issued compelling the applicant to join at Mhow (MP), which has put her to great hardship. The applicant has filed this application seeking to set aside the impugned order and for a direction to the respondents to retain the applicant at Trichur or in the alternative to direct the respondents 1 to 4 to post the applicant and her husband to one and the same station. The applicant's husband is presently working at Thirupathi.

3. When the O.A. came up for hearing on 2.7.2001, as an interim measure, we directed the respondents 1 to 4 to allow the applicant to continue in KV, Trichur till the next date of hearing and then the interim order was extended until further orders. The 5th respondent is the person transferred from Kendriya Vidyalaya Mhow to Trichur in the place of the applicant.

4. The respondents 2, 3 and 4 have filed a reply statement justifying the impugned order on the ground that the order has been issued strictly in accordance with the transfer norms and the applicant does not have a right to claim that she should be retained in Trichur. The 5th respondent has also filed a reply statement in which she has sought to justify the impugned order on the ground that, after having served at a distant place for more than 7 1/2 years, on her request she has now been transferred and accommodated in Trichur as per transfer guidelines and therefore, the applicant has no right to challenge against her transfer.

5. O.A.846/01: The 5th respondent in O.A.556/01 has filed this application. The applicant in this case was, by order dated 25.6.2001 (A1) in this O.A. (A-1 in O.A.556/01) transferred to KV Trichur. Having been relieved from Mhow, the

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applicant came and joined in KV Trichur. However, the applicant in O.A.556/01, who is the 5th respondent in this case, on the basis of an interim order issued on 2.7.2001 is continuing in KV Trichur. Under these circumstances, the 4th respondent (Principal) issued impugned order A-3 relieving the applicant w.e.f. 22.9.2001 to report KV Mhow (M.P.) on the ground that as the 5th respondent (applicant in O.A.556/01) is continuing in KV Trichur on the basis of the interim order, a peculiar situation has arisen under which the applicant as also the 5th respondent are working against a single post and that in order to tide over the situation, it is necessary to send the applicant back to Mhow as a temporary measure. However, indicating that her transfer would be given effect to and that the application filed by R-5 would be vigorously contested.

6. We have heard Shri P.Ramakrishnan in O.A.556/01 and Shri John Joseph in O.A.846/01, learned counsel for applicants and Shri Thottathil B.Radhakrishnan learned counsel for official respondents.

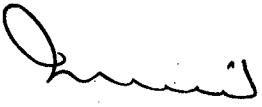
7. Transfer being an incident of service, the applicant in O.A.556/01 being a person holding a transferrable post has no right to claim retention in KV Trichur itself. Apparently there is no violation of any guidelines also. Therefore, the impugned order A-1 in O.A.556/01 to the extent of transfer of the applicant cannot be faulted and interfered with. However, the applicant has made a claim that her husband also being in the service of the KV Sangathan, the respondents have to consider as per guidelines giving to them postings in a station or in nearby stations. The applicant in O.A.556/01 is on maternity leave till December 15, 2001. Since we find no infirmity with the impugned order, we dispose of this application permitting the applicant and her husband to make a

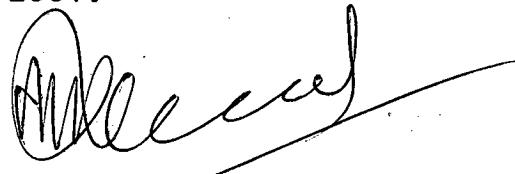
joint representation to the 2nd respondent for a posting to a station or nearby stations indicating the vacancy position within fifteen days, and directing the 2nd respondent that if such a representation is received, the same should be considered with due sympathy and in the light of the guidelines in that regard, and an appropriate reply be given to the applicant within a period of one month from the date of receipt of the representation.

8. In view of the fact that the impugned order in OA 556/01 (A1) is not interfered with, the transfer of the applicant in O.A.846/01 to KV Trichur will stand and the impugned order A-3 in O.A.846/2001 is set aside. The interim order in O.A. 556/2001 has, therefore, come to a close.

9. Both these OAs. are disposed of without any order as to costs.

Dated the 10th October 2001.


T.N.T.NAYAR
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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O.A.556/2001

Applicant's Annexures:

1. Annexure A1: True copy of order No.F8-1(D)/Physics/2001/KVS (E.III) dated 25.6.2001 issued by 3rd respondent.
2. Annexure A2: True copy of transfer guidelines issued by the 2nd respondent.
3. Annexure A3: True copy of transfer request dated 22.2.2001 submitted by the applicant.
4. Annexure A4: True copy of transfer request dated 5.2.2001 submitted by applicant's husband S. Ullas.
5. Annexure A5: True copy of representation dated 30.6.2001 from the applicant to the 2nd respondent with the enclosed Medical certificate.

Respondents' Annexures:

1. Annexure R5(a): True copy of Medical Certificate showing the pregnancy of this respondent issued by the Doctor.
2. Annexure R5(b): True copy of Medical certificate issued to the 5th respondent's mother by the Doctor.

O.A.846/2001

Applicant's Annexures:

1. Annexure A1 : True copy of the transfer Order No.F8 1(D)/ physics 2001/KVS(E-III) dated 25.6.2001 issued by the 3rd respondent.
2. Annexure A2 : True copy of transfer quide lines dated 22.2.2001 submitted by the applicant.
3. Annexure A3 : True copy of the order No.1-5/KV TCR/2001-02/747 of the Principal, KV, Perinattukara, Trichur dated 22.9.2001.
4. Annexure A4 : True copy of the Medical Certificate issued to the applicant dated 10.9.2001.
5. Annexure A5 : True copy of the Medical Certificate issued to the mother of the applicant Ammini by the Doctor, Krishna Hospital, Ernakulam,

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