

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.558/2001

Friday this the 7th day of September, 2001

CORAM

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

P.V.V.Namboothiry
Trained Graduate Teacher (Maths)
Kendriya Vidyalaya,
Pangode,
residing at Panchavady, Area 32,
Elluvila Lane, Thirumala.
Trivandrum.695 006.Applicant

(By Advocate M/s KP Dandapani and Smt.Sumati Dandapani)

V.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.16.
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
IIT Campus, Chennai.36.
3. The Deputy Commissioner (Admn)
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.16.
4. The Principal,
Kendriya Vidyalaya,
Pangaode
Trivandrum.
5. The Principal,
Kendriya Vidyalaya,
Chamera NO.1.
Jammu 180 001.Respondents

(By Advocate Mr.Thottathil B.Radhakrishnan)

The application having been heard on 7.9.2001, the Tribunal
on the same day delivered the following;

O R D E R

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

The applicant, Trained Graduate Teacher (Maths) (TGT (Maths) for short) who was working in Kendriya Vidyalaya, Pangode, Trivandrum was as a part of redeployment of TGT (Maths) on account of surplusage during the year 2001-2002 transferred to Chamera in Jammu by order dated 2.5.2001. Aggrieved by the transfer, the applicant made a representation to the Ist respondent on 7.5.2001 (A4) stating how he should not have been transferred and that even if a deployment is required how he should have been adjusted in any one of the vacancies in Chennai Region itself pointing out the vacancies in Kottayam and Kayamkulam. As this representation was not being considered and disposed of and the applicant was apprehending relief the applicant filed OA 411/2001 challenging the impugned order Annexure.A1. When the application came up for hearing the counsel of the respondents took time to get instructions but by the time the application came up for hearing on the next hearing date it was stated that the applicant had already been relieved. However, the OA was disposed of as agreed to by the counsel on either side, directing the Commissioner, Kendriya Vidyalaya Sangathan to consider the representation submitted by the applicant and to pass an appropriate order within four weeks from the date of receipt of the judgment. In obedience to the above directions of the Tribunal, the impugned order Annexure.A7 dated 25.6.2001 has been issued turning down the request of the applicant either for retention or for adjustment in nearby station on

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the ground that the transfer was required on account of surplusage, was being made in accordance with the guidelines and that no vacancy existed to accommodate the applicant in the Chennai Region. It is aggrieved by that the applicant has filed this application seeking to set aside the impugned orders Anexures.A1 and A7 declaring that the teacher of a particular category of longer stay in Kendriya Vidyalaya should not be moved out and moving out should be of teachers who have got shorter length of service on surplusage and for a direction to the Ist respondent to explore the feasibility of appointing the applicant either at Kendriya Vidyalaya, Rubber Board, Kottayam or at Kendriya Vidyalaya, NTPC, Kayamkulam as TGT (Maths).

2. On behalf of the respondents, the second respondent has filed a statement in reply to the Original Application denying the allegations made in the application. It is stated that the applicant is not entitled to raise the contentions pleaded against Annexure.A3 that therefore, the challenge against Annexure.A1 and Annexure.A7 are unsustainable and that as there is no vacancy where the applicant can be accommodated in Chennai region, the application is liable to be dismissed.

3. We have heard the learned counsel for the parties and have carefully gone through the pleadings and other materials brought on record. The respondents contend that since Kendriya Vidyalaya Sangathan is an autonomous body,



the policy guidelines regarding transfer on surplusage cannot be questioned before the court or tribunal. He therefore, argued that his challenge against Annexure A-3 will not stand. However, they do not contend that the teachers cannot claim the benefit or protection if any, contained in the guidelines. It has been provided in paragraph 3 of A3 guidelines that in the case of surplusage efforts should be made to adjust the affected teacher to the extent possible in the same station or atleast in the nearby station. Therefore, before transferring the applicant from Kerala to Jammu the feasibility of adjusting the applicant in any of the Kendriya Vidyalayas in the Chennai Region should have been explored by the respondents. The applicant has in the application very clearly pointed out that there is a vacancy in Kendriya Vidyalaya, Rubber Board, Kottayam and another vacancy at Kendriya Vidyalaya, NTPC, Kayamkulam of TGT (Maths) and that for the time being from 1999 onwards contract teachers are being engaged without filling these vacancies on a regular basis. In the representation which was disposed of by the impugned order A-7 also, the applicant had pointed out these vacancies. In the reply statement while the respondents have stated that there is no vacancy to post the applicant in Kottayam or Kayamkulam, the fact that two vacancies of TGT (Maths) one in Kottayam and another in Kayamkulam have not been filled on a regular basis and are being operated by engaging contract teachers have not been denied by the respondents. Even now the learned counsel appearing for the respondents is not in a

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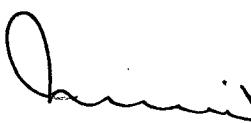
position to either accept or deny the specific statement made in the application by the applicant that contract teachers are working on these two vacancies. The learned counsel of the respondents would only state that in Annexure A7 impugned order it has been stated that there is no vacancy. However, the allegation that the posts of TGT (Maths) in Kendriya Vidyalaya, Rubber Board and NTPC Kayamkulam are being occupied by contract teachers has not been denied at all.

4. In the circumstances, we are of the considered view that the interests of justice would be met, if the respondents are directed to post the applicant in one of these vacancies either in Kendriya Vidyalaya, Rubber Board, Kottayam or Kendriya Vidyalaya, NTPC, Kayamkulam where if the posts of TGT (Maths) are not occupied by regular TGT (Maths) in the service of the Kendriya Vidyalaya Sangathan.

5. In the result, the application is disposed of directing the respondents that if the posts of TGT (Maths) in Kendriya Vidyalaya, Rubber Board as also in Kendriya Vidyalaya, NTPC, Kayamkulam have not been as on this date filled by posting a regular TGT (Maths) in the service of the Kendriya Vidyalaya Sangathan, but managed by engaging contract teachers, the applicant shall be posted in one of the posts and only if the posts are already filled by regular TGT (Maths) in the service of the Kendriya Vidyalaya

Sangathan the applicant would be moved out of Chennai Region. The above direction shall be complied with and necessary orders issued within a period of one month from the date of receipt of a copy of this order. The period during which the applicant is kept out of duty shall be regularised by grant of leave of any kind due and if no leave is due, by grant of extra ordinary leave. No costs.

Dated the 7th day of September, 2001



T.N.T. NAYAR

ADMINISTRATIVE MEMBER



A.V. HARIDASAN

VICE CHAIRMAN

(s)

APPENDIX

1. Annexure A1 : Photocopy of Office Order No.F.1-3/TGT(Maths) 2001/KVS(Estt.III) dated 2.5.2001 of the 3rd respondent issued to the applicant.
2. Annexure A2 : Photocopy of Relieving Order No.3/2001-2002/75 dated 8.5.2001 issued by the 4th respondent to the applicant.
3. Annexure A3 : Photocopy of guidelines vide No.F.1-1/96-KVS (Estt.III) dated 23.7.1996 by the third respondent.
4. Annexure A4 : Photocopy of representation submitted by the petitioner before the 1st respondent on 7.5.2001
5. Annexure A5 : Photocopy of order of this Hon'ble Tribunal dated 15.5.2001 in O.A.411/2001.
6. Annexure A6 : Photocopy of order of this Hon'ble Tribunal in M.A.708/2001 in O.A.411/2001 dated 25.6.2001.
7. Annexure A7 : Photocopy of Memorandum No.F.19-297(3)/2001-KVS (L&C) dated 25-6-2001 of the 1st respondent issued to the applicant.
8. Annexure A8 : Photocopy of order of this Hon'ble Tribunal dated 16.6.2001 in O.A.513/2001.
9. Annexure A9 : Photocopy of order dated 16.2.2001 in O.A.182/2001 of this Hon'ble Tribunal.

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