

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 563/2010

Dated this the 25th day of March, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

Jaya Sasi V W/o. Sasidharan Pillai
Assistant, Kendriya Vidyalaya
Kadavanthara, Ernakulam.

Permanent Address:
"Sreyas" Pulimath (P.O)
Trivandrum District.

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Applicant

(By Advocate Mr. T.C. Govindaswamy)

V e r s u s

1 The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shahid Jeet Singh Marg
New Delhi - 110 016.

2 The Deputy Commissioner (Administration)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shahid Jeet Singh Marg
New Delhi - 110 016.

3 The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, IIT Campus
Chennai - 36

4 S. Ramachandran Nair
Assistant, Kendriya Vidyalaya No.1
Calicut.

.... Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil for R1-3)
(By Advocate Mr. P. Ramakrishnan for R-4)

The Application having been heard on 25.02.2011, the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the non- feasance on the part of the respondents in not posting her to the post of Assistant at Pallipuram KVS despite being at priority No. 1. for transfer to Pallipuram.

2 The applicant was initially appointed as an Upper Division Clerk in the Kendriya Vidyalaya Sangathan on 12.10.1981 at Ramagundam in Andhra Pradesh. Ever since, she was being shifted from place to place due to one reason or other. She is at present working as Assistant. She submitted that in accordance with the transfer policy in vogue, she submitted a request for transfer to Pallipuram which was registered and stands at priority No. 1 (A-2). Meanwhile, the respondents amended the guidelines (A-3) according to which an employee would get preferential posting to place where the spouse is employed. The 4th respondent whose spouse was working at Pattambi requested for transfer to the nearest place Calicut on the basis of spouse working there. The 4th respondent joined Calicut immediately. Subsequently, the 1st respondent revised the staff norms (A-5). The Calicut KV No.1, which is a five section school has no post of Assistant whereas a four section school will have one Assistant each. As a consequence, the one post of Assistant has fallen vacant each at Pallipuram, Trichur and Palakkad. The applicant who is at priority No. 1 for Pallipuram was anticipating that she would be considered and posted. However to her surprise the 4th respondent who was at priority No. 2, was posted and the applicant was denied the benefit of being at priority No.1. Having been away from her family for about 23 years out of her 28 and half

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years of service, she was deprived of a normal family life with her children and husband. Aggrieved, she filed this O.A. to quash Annexure A-8, to declare that the non-feasance on the part of the respondents as arbitrary, discriminatory and unconstitutional and for a direction to the respondents to consider her case for transfer to Pallipuaram against the existing; vacancy of Assistant.

3 The 4th respondent and the official respondents 1 to 3 filed reply statement separately.

4 The 4th respondent in the reply statement submitted that he became surplus at the KV No.1 Calicut, therefore he was transferred to the nearest vacancy of the place of his choice in order to liquidate the surplus position. He also submitted that while working in KV Pallippuram as Assistant from 2.11.2002 to 13.5.2005 he had been transferred on surplus ground to KV Bangalore.

5 The respondents 1 to 3 in their reply statement submitted that the applicant had applied for transfer on spouse ground to Pallippuram and Trivandrum during the annual transfer session and was placed at priority NO. 1 and 2 respectively. Simultaneously the 4th respondent who joined KV No.1 Calicut on transfer from KVS Regional Office, Bangalore became surplus to the consequent on withdrawal of surplus post in KV No.1 Calicut. They stated that as per the transfer policy, the employee who has become surplus has to be transferred to the nearest vacancy or to the place of his choice in order to liquidate the surplus position. The 4th respondent requested for transfer to Pallippuram. As per the guidelines surplus transfers precede request transfers. Accordingly the 4th respondent was transferred in preference to the applicant.



6 The applicant has filed an M.A. 45/2011 producing details of employees retiring on superannuation during 2011 and that a vacancy is arising in KV Pattom, Trivandrum on 1.3.2011. The respondents were directed to get instructions on the M.A. When the case was taken up for hearing on 25.2.2011, the learned counsel for the respondents produced a copy of letter issued by the KVSs, Regional Office, Chennai addressed to the counsel admitting the fact that a post of Assistant at KV Pattom is available w.e.f. 1.3.2011 and that the annual transfer has been closed on 31st August, 2010 and that fresh annual transfers will be taken up w.e.f. 1.4.2011 in accordance with the revised transfer guidelines which comes into force w.e.f that date.

7 In the circumstances, I am of the opinion that interest of justice will be met if the O.A. is disposed of with a direction to the respondents. Therefore, I direct the respondents to consider the priority registration of the applicant for a transfer to Trivandrum and post her to the vacancy available at Trivandrum. I order accordingly. In any case, the vacancy of Assistant available at K.V. Pattom w.e.f. 1.3.2011 could be filled only in accordance with the transfer guidelines in vogue. There shall be no order as to costs.

Dated 25th March, 2011.


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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