

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos. 564/2001 & OA 775/2001

Thursday this the 27th day of September, 2001

CORAM

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

OA. 564/2001:

Sreedevi P.G.
W/o Sreekumar, aged 32 years,
Post Graduate Teacher (Maths)
Kendriya Vidyalaya, Newsprint Nagar,
Mavelloor, Kottayam District,
residing at Sreemangalam, Komana,
Ambalapuzha
Alleppey District.Applicant

(By Advocate Mr.M/s Ramkumar & Ramprasad Unni T)

V.

1. The Kendriya Vidyalaya Sangathan,
Shaheed Jeet Singh Marg,
New Delhi/16 represented by its
Deputy Commissioner (Admn).
2. The Principal,
Kendriya Vidyalaya Newsprint Nagar,
Mavelloor, Kottayam District.
3. Smt.Jayasree Raghavan,
Post Graduate Teacher (Maths)
c/o Principal, Kendriya Vidyalaya,
Bilaspur.

(By Advocate Mr.Thottathil B Radhakrishnan (rep) (R1&2)
Mr. Pirappancode V.S.Sudheer (for R.3)

OA No.775/2001:

Jayasree Karthikeyan,
Post Graduate Teacher (Maths)
Kendriya Vidyalaya,
Newsprint Nagar,
Kottayam District/16
residing at Vadakkechirayil House,
Kulasekharamangalam PO,
Vaikom.686 608. Applicant

(By Advocate Mr. Pirappancode V.S.Sudheer)

V.

1. The Kendriya Vidyalaya Sangathan,
Shaheed Jeet Singh Marg,
New Delhi.110016 represented by its
Commissioner.

2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Chennai.

3. The Principal, Kendriya Vidyalaya,
Newsprint Nagar,
Kottayam District.

4. Smt. Sreedevi P.G.
Sreemangalam, Komana,
Ambalapuzha, Alappuzha District.

(By Advocate Mr.Thottathil B. Radhakrishnan (rep) (R1&3)
Shri Ramkumar & Sh.Ramprasad Unni (for R.4)

The applications having been heard on 27.9.2001, the tribunal on the same day delivered the following:

ORDER

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

These two applications are inter-related as the cases relate to the post of Post Graduate Teacher (Mathematics) in Kendriya Vidyalaya, Newsprint Nagar, Kottayam. The facts in brief can be stated as follows:

OA. 564/2001:

The applicant after having served in Gujarat for two years was posted to Kendriya Vidyalaya, Newsprint Nagar, Kottayam where she has been working only for the last more than five years. Her husband is a businessman in Alappuzha. He on 21.4.2001 sent a letter to Dr. Murali Manohar Joshi, Hon'ble Minister for Human Resources Development, New Delhi through the Member of Parliament Shri V.M. Sudheeran requesting that in the event of transfer of his wife the applicant she might be accommodated in a vacancy in Kendriya Vidyalaya, Kayamkulam, NTPC Township, Alappuzha District. However, while the applicant or her husband did not get any response to the letter, the impugned order Annexure B dated

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25.6.2001 was issued by the Ist respondent transferring the applicant from Kendriya Vidyalaya, Newsprint Nagar to Kendriya Vidyalaya, Bilaspur. The applicant on 30.6.2001 sent a representation to the Ist respondent requesting that Annexure.B order to the extent of her transfer to Bilaspur may not be implemented and she may be accommodated in any of the Kendriya Vidyalayas in Cochin, Calicut or any other nearby stations of Chennai Region. On 2.7.2001 the applicant has filed this application challenging the Annexure.B order to the extent it affects her and Annexure.C order dated 30.6.2001 relieving her on transfer to Bilaspur. It has been alleged in the application that the transfer of the applicant to Bilaspur was not in public interest, as it was only to accommodate the third respondent, that the applicant being in the early stage of pregnancy, long journey to Bilaspur would be injurious to her pregnancy and that it would jeopardise her family life and that the respondent should have accommodated the applicant in any of the stations in and around Kerala.

3. When the application came up for hearing for admission on 2.7.2001 as the counsel of the official respondents sought ten days time to get instructions in the matter a direction was given to them to allow the applicant to work as PGT (Maths), Kendriya Vidyalaya, Newsprint Nagar, Kottayam till the next date of hearing which interim order was subsequently renewed and made until further orders.

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4. On behalf of respondents 1&2 a reply statement has been filed seeking to justify the impugned order of transfer on the ground that the transfer was effected strictly in accordance with clause 10(1) of the transfer guidelines to accommodate the third respondent who has already completed a stay of more than five years at Bilaspur. As the transfer of the applicant has been made in public interest and in accordance with the rules, they contend that the Original Application is only to be dismissed.

5. Respondent No.3 has filed a detailed reply statement justifying her transfer to Kendriya Vidyalaya, Newsprint Nagar, Kottayam on the ground that she has already served nearly six and half years at Bilaspur. Since the third respondent has been relieved on 30.6.2001 and commenced her journey to Kerala immediately, the third respondent states that the impugned order may not be interfered with. It has also been stated that the third respondent is in the early stage of pregnancy as she is three months pregnant and that it would be disastrous if she is not permitted to continue in Kendriya Vidyalaya, Newsprint Nagar, Kottayam.

OA. 775/2001:

The applicant who has worked as PGT (Maths) Kendriya Vidyalaya, Bilaspur for more than six and half years was in terms of the guidelines transferred to Kendriya Vidyalaya, Newsprint Nagar, Kottayam by order dated 25.6.2001. She was

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relieved on 30.6.2001 and she joined Kendriya Vidyalaya, Newsprint Nagar on 4.7.2001. The grievance of the applicant is that she has now been served with an order dated 4.9.2001 (A4) issued by the third respondent relieving her of her duties in the Kendriya Vidyalaya, Newsprint Nagar in the afternoon of 4.9.2001 purportedly acting under the direction of the second respondent and asking her to report to the Principal, Kendriya Vidyalaya, Bilaspur forthwith making it clear that it was a temporary measure made with the concurrence of the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi and she would be accommodated in Kendriya Vidyalaya, Newsprint Nagar later as per instructions. Aggrieved by this order the applicant has filed this application seeking to quash Annexure A4 and for a direction to the respondents 1 to 3 to permit the applicant to continue in Kendriya Vidyalaya, Newsprint Nagar, Kottayam declaring that she is eligible and entitled to continue there. It has been alleged in the application that the applicant having been transferred in public interest according to the guidelines at the point of time when she was three months pregnant the impugned order relieving the applicant from the place of posting and directing her to go back to Bilaspur is wholly unjustified and not warranted in public interest or any rule or instructions and would be disastrous to her.

4. The applicant in OA 564/01 has been impleaded as the 4th respondent in this case. Respondents 1 to 3 in their

reply statement seek to justify the impugned action on the ground that on account of the interim order in OA 564/2001 the applicant in that case as also the applicant in this case are working against a single post which cannot be allowed in public interest and that it is to sort out this situation that the applicant is being sent to Kendriya Vidyalaya, Bilaspur on a temporary measure.

5. The 4th respondent has filed a reply statement in which she contends that the transfer of the applicant to Kendriya Vidyalaya, Newsprint Nagar was not made in public interest and that to accommodate the applicant, the 4th respondent could not have been validly disturbed.

6. We have heard Shri Ramprasad Unni, learned counsel of the applicant in OA 564/2001, Shri Pirappancode V. Sudheer, learned counsel of the applicant in OA 775/2001 and Shri T.B. Radhakrishnan, learned counsel of the official respondents in these cases. It is a fact not disputed that there is only one post of PGT (Maths) in the Kendriya Vidyalaya, Newsprint Nagar, Kottayam and that by virtue of the impugned order of transfer in OA 564/2001 and on relief thereunder, the applicant in OA 775/2001 has joined and is working on that post. It is also a fact that on account of the interim order issued by this Tribunal in OA 564/2001 before the relevant facts were brought to the notice of the Tribunal, the applicant in that case is also continuing as PGT (Maths) in Kendriya Vidyalaya, Newsprint Nagar. The

administration therefore has a real problem of two teachers working against one sanctioned post. Such a situation is against public interest as also public exchequer. The applicants in these two cases are ladies and both of them have a common problem of being in a stage of pregnancy. The applicant in OA 775/2001 who is three months pregnant had undertaken the journey from Bilaspur to Kerala pursuant to a valid order of transfer and she has joined Kendriya Vidyalaya, Newsprint Nagar, Kottayam. If she is to be disturbed that would be putting her to a double disadvantage. The applicant in OA 564/2001 is again a pregnant lady. The question is whether the order Annexure B in OA 564/2001 under which the applicant in that case was transferred from Kendriya Vidyalaya, Newsprint Nagar to Kendriya Vidyalaya, Bilaspur can be faulted for any reason. That the applicant was pregnant at the time when the impugned order was issued was not known to the competent authority who issued the transfer order. As a routine measure transfers had to be made during the summer vacation. Clause 10(1) of the guidelines provide for giving a posting to a teacher who has served for more than five years in a distant place to the place of his or her choice. It was on considering the fact that the third respondent in OA 564/2001 who is the applicant in OA 775/2001 had already served for more than six and half years in Bilaspur that she was transferred to Kendriya Vidyalaya, Newsprint Nagar, Kottayam. This is perfectly in tune with the transfer policy contained in the guidelines. The applicant has

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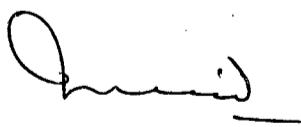
already completed service of more than five years in Kendriya Vidyalaya, Newsprint Nagar, Kottayam and her transfer from that institution was due. Under these circumstances, we are of the considered view that there is absolutely no reason to interfere with the impugned order in OA 564/2001 as it was issued in public interest and strictly in accordance with the transfer policy contained in the guidelines.

6. The applicant in OA 775/2001 has been transferred to Kendriya Vidyalaya, Newsprint Nagar, Kottayam as she has already completed more than six and half years in Bilaspur in accordance with the transfer policy and the guidelines especially clause 10(1) of the transfer guidelines. To ask her to go back to Bilaspur as has been done by the impugned order A4 is wholly unjustified especially when the applicant in this case is a woman with three months pregnancy and has already undertaken a long journey from Bilaspur to Kottayam on her relief pursuant to the order of transfer. Therefore, we have no hesitation to strike down the impugned order in OA 775/2001 and directing the respondents to allow the applicant to continue as PGT (Maths) in Kendriya Vidyalaya, Newsprint Nagar, Kottayam.

7. In the light of what is stated above, the prayer of the applicant in OA 564/2001 is not granted. OA 775/2001 is allowed and the impugned order A4 is set aside and the respondents are directed to allow the applicant to continue

in Kendriya Vidyalaya, Newsprint Nagar, Kottayam as Post Graduate Teacher (Mathematics) on the basis of the order of transfer dated 25.6.2001. However, taking into account the fact that the applicant in OA 564/2001 is a lady in advanced stage of pregnancy which pregnancy came after prolonged treatment as fervent expectation, we are of the considered view that she should be granted maternity leave as also other eligible leave for a reasonable period, if she applies to the competent authority without reporting to Bilaspur, on relief from Kendriya Vidyalaya, Newsprint Nagar. Therefore while decline to grant the applicant in OA 564/2001 the relief sought by her, we dispose of that application permitting the applicant after getting relieved pursuant to the order of transfer to apply to the Ist respondent for maternity leave and also other eligible leave for a reasonable time and directing the Ist respondent that when such leave application is received it should be considered without insisting on the applicant's joining at Bilaspur, before granting leave and leave for a reasonable period should be granted. We also direct that the feasibility of giving the applicant a posting to one of the Kendriya Vidyalayas in Chennai Region should also be considered by the first respondent. No costs.

Dated the 27th day of September, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

APPENDIX

O.A. 564/2001

1. Annexure A : True copy of representation dated 21.4.2001 submitted by the husband of the applicant before the Hon'ble Minister for Human Resources Development, New Delhi.
2. Annexure B : True copy of order No.F.8.1(D)/Maths/2001/KVS(E-III) dated 25.6.2001 issued by R-1.
3. Annexure C : True copy of order No.F3-7/KV:NPN/2001-2002 dated 30.6.2001 issued by R-2.
4. Annexure D : True copy of representation dated 30.6.2001 Submitted by the applicant before the Dy. Commissioner, KV Sangathan, New Delhi.

O.A. 775/2001

1. Annexure A1 : True copy of the transfer order No.F8/1(D)/Maths/2001/KVS(E-III) dated 25.6.2001 issued by Deputy Commissioner(Admn), KV Sangathan, Newsprint Nagar, Kottayam.
2. Annexure A2 : True copy of the order dated 30.6.2001 of the Principal, KV Sangathan, Bilaspur relieving the applicant from there.
3. Annexure A3 : True copy of the order dated 2.7.2001 of this Hon'ble Tribunal in O.A.564/2001.
4. Annexure A4 : True copy of the order No.F.3-7/KV NPN/2001-2002 dated 4.9.2001 of the Principal, KV, Newsprint Nagar, Kottayam.

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