

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.10/2001

Tuesday this the 2nd day of January, 2001

CORAM

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

V.Viswambharan Nair S/o Velayudhan Nair,
aged 52 years, TGT (Maths)
Kendriya Vidyalaya-II,
Kochi. residing at 39/2895,
Parambaloth House, Manikath Road,
Ravipuram, Kochi.16.Applicant

(By Advocate Mr. M.R.Hariraj)

Vs.

1. Union of India, represented by the Secretary to Government of India, Ministry of Human Resources and Development, New Delhi.11001.
2. Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.110001.
3. Education Officer, Kendriya Vidyalaya Sangathan, New Delhi.1
4. The Principal, Kendriya Vidyalaya II Kochi.682001.
5. Smt.Kunjunjamma Mathew, TGT Maths, KV Vehicle Factory, Jabalpur.Respondents

(By Advocate Mr.Thottathil B.Radhakrishnan (rep)

for Rpt to 4
The application having been heard on 2.1.2001, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who is working as Trained Graduate Teacher (Mathematics), Kendriya Vidyalaya No.II, Kochi has filed this application challenging the order dated 27.12.2000 by which he has been transferred to Kendriya Vidyalaya VF Jabalpur purportedly under the provisions contained in Para 10(1) of the transfer guidelines. The applicant has

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assailed the impugned order on various grounds, the most important of them being that the transfer during the midst of the academic session only to accommodate the 5th respondent who has requested for a transfer is opposed to the general policy contained in the guidelines. It is alleged that the applicant's daughter's wedding is fixed to take place on 21.1.2001 and that the second daughter of the applicant is studying in the third semester in Engineering College, Trikkakara and that the out of turn transfer during the midst of the academic session would jeopardise the family affairs of the applicant. It has also been alleged that the applicant's wife is also serving as a Teacher in the Kendriya Vidyalaya No.I, Kochi and the transfer of the applicant will disrupt the family. Aggrieved by the impugned order the applicant has made a representation to the second respondent on 1.1.2001. Apprehending that the applicant would be relieved before the representation is considered and disposed of by the competent authority, the applicant has filed this application seeking to quash the impugned order Annexure.A1 and for a direction to the official respondents to permit the applicant to continue at Kochi and alternatively to direct the second respondent to consider and pass a reasoned order on Annexure.A4 representation before implementing Annexure.A1.

2. I have heard Shri M.R.Hariraj, learned counsel of the applicant and Shri George Varghese, appearing on behalf of Shri T.B.Radhakrishnan, learned counsel for the official respondents. The

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applicant has got a grievance that the transfer is not in public interest and could not be made during the course of the academic session unless there is such an exigency of service. However, whether there is exigency of service or whether the applicant could be accommodated at Kochi itself accommodating the 5th respondent in another post which is vacant has to be considered by the competent authority. It is precisely for that reason that the applicant has made a representation to the second respondent. If the applicant is relieved in the meanwhile that undoubtedly would create undue hardship. Therefore, I am of the considered view that it is a fit case where the alternative relief prayed for in the original application to be granted.

3. In the light of what is stated above, the application is disposed of directing the second respondent to consider the representation submitted by the applicant (Annexure.A4) taking into account the family circumstances of the applicant explained in the representation as also in the Original Application such as the vacancy position in Kochi and to give the applicant an appropriate reply as expeditiously as possible. I also direct that till a decision of the second respondent on the representation is served on the applicant, the applicant shall not be relieved from the place of the present posting. No costs.

Dated the 2nd day of January, 2001


A.V. HARIDASAN
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A1: True copy of the Order No.F.7-1(D)/2000-KVS (Estt.III) dated 27-12-2000 issued by the third respondent.

Annexure.A4:True copy of the representation dated 1.1.2001 submitted by the applicant to the 2nd respondent.

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