

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.107/2001.

Wednesday this the 26th day of September 2001.

CORAM:

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

P.V.Padmanabhan
Post Graduate Teacher (English),
Kendriya Vidyalaya, Kannur-17. Applicant

(By Advocate Shri V.N.Ramesan Nambisan)

vs.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Bangalore Region,
St. John's Road,
Opp. Mega Theatre, Bangalore-42.
3. The Principal,
Kendriya Vidyalaya, Kannur-17.
4. P.V. Sudhakaran, PGT (English),
Kendriya Vidyalaya Sangathan,
No.1, Imphal.

Respondents

(By Advocate Shri Thottathil B.Radhakrishnan)

The application having been heard on 26th September 2001 the Tribunal on the same day delivered the following:

ORDER

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

This is the second time the applicant, a Post Graduate Teacher(English) of Kendriya Vidyalaya, Kannur is approaching this Tribunal against the order dated, 30.11.2000 (A-1), by which the applicant was transferred from Kendriya Vidyalaya, Kannur-17 to Kendriya Vidyalaya No.1 Imphal. The applicant made a representation (A4) dated 5.12.2000 to the Joint Commissioner (Administration), Kendriya Vidyalaya, New Delhi.

for cancellation of the transfer order or for modification of the same and for accommodating him in a nearby station in Chennai region. As there was no response, the applicant filed O.A.1285/2000 seeking to set aside the impugned order A-1 in that O.A. That O.A. was disposed of directing the 3rd respondent to consider and pass appropriate orders on A-4 representation dated 5.12.2000 as expeditiously as possible and that the applicant should not be relieved till the disposal of the representation. In obedience to the above direction, his representation was considered, and the impugned order dated 22.1.2001 (A6) was issued, turning down his request and giving a direction to report at the place of posting in terms of A-1. The applicant has again filed this application challenging the impugned order A-1 as also A-6 on various grounds. It is alleged in the application that there are vacancies in KV No.II Calicut and Kendriya Vidyalaya Ooty, as also in Goa. It is also alleged in the application that the impugned order A-1 as also A-6 have been issued in violation of the guidelines and therefore they are not sustainable.

2. The respondents have filed a detailed reply statement.

3. We have heard the learned counsel on either side. It is well settled by now that transfer is an incident of service and an officer who is holding a transferrable post, has no indefeasible right to claim posting in any particular place. It is also well settled now that guidelines do not clothe an officer with enforceable right for a posting in a particular

place. However, it has also been held in a catena of decisions of the Apex Court that, guidelines are meant to be followed and not to be violated or ignored although deviation from the guidelines would be justified only on administrative grounds and exigencies of service. In this case, the impugned order of transfer A-1 was issued on 30.11.2000. Paragraph 6 of the Transfer Guidelines (A9) which reads as follows:

As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31st August.

- i. Organisational reasons, administrative grounds and cases covered by para 5.
- ii. Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.
- iii. Mutual transfers as provided in para 12.

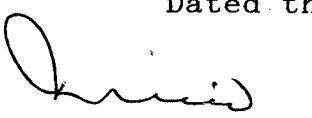
4. As per this paragraph, normal transfer should be made during the summer vacation and transfer beyond 31st August is permitted only for exceptional reasons like organisational reasons, administrative grounds and cases covered by paragraph 5 of the guidelines. Paragraph 5 of the guidelines relates to transfer on the recommendation of the Principal and the Chairman and transfer of spouse of a Principal to Kendriya Vidyalaya at the station where the Principal is working. We find that the transfer in this case ordered on 30.11.2000 is not covered by paragraph 5 nor by exception contained in paragraph 6. Accommodation of a Teacher who has rendered

service in a tenure station, in a station of his choice, can be done during the normal routine transfer made during the summer vacation. That is not, something to be done hurriedly in the midst of the academic session and beyond 31st August.

5. Thus we find that while the respondents seek to justify the impugned orders on the ground that Annexure A-1 was made strictly in accordance with rules and not on account of any exigency, as a matter of fact the order has been issued overlooking the guidelines contained in Clause 6 for no valid and exceptional reasons. The impugned orders A1 and A6 are therefore, liable to be set aside, to the extent it affects the applicant.

6. In the light of what is stated above, we allow the application, set aside the impugned order Annexure A-1 to the extent it affects the applicant as also the Annexure A-6 order. No costs.

Dated the 26th September, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

1. Annexure A1: True copy of the order of transfer dated 30.11.2000 No.F.8-1/2000(D)-KVS Estt.III)
2. Annexure A2: True copy of the certificate dated 22.4.83.
3. Annexure A3: True copy of the Service certificate dated 6.12.2000.
4. Annexure A4: True copy of the representation dated 5.12.2000.
5. Annexure A5: True copy of the order dated 8.12.2000 of the Hon'ble Tribunal in O.A.No.1285/2000.
6. Annexure A6: True copy of the order dated 22.1.2001 of the Ist respondent. NO.F.19-6(18)2001 KVS (L & C)
7. Annexure A7: True copy of the representation dated 5.12.2000.
8. Annexure A8: True copy of the representation dated 9.1.2001.
9. Annexure A9: True copy of the transfer guidelines.

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