

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 11 of 2004

Wednesday, this the 14th day of January, 2004

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. S.P. Saxena,
S/o late R.B.L. Saxena,
Primary Teacher, Kendriya Vidyalaya,
INS Dronacharya, Kochi - 682 507Applicant

[By Advocate Mr. K.P. Dandapani rep.by Smt. K. Girija]

Versus

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shahid Jeet Singh Marg,
New Delhi - 110 016
2. The Assistant Commissioner (Admn.),
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shahid Jeet Singh Marg,
New Delhi - 110 016
3. The Principal,
Kendriya Vidyalaya, INS Dronacharya,
Kochi - 682 507
4. The Principal,
Kendriya Vidyalaya, NHPC, Dharchula,
PO Fulori - 262 576,
District: Pithoragarh.
5. The Principal,
Kendriya Vidyalaya No.I,
Shahjahanpur - 242 001Respondents

[By Advocate M/s Iyer & Iyer rep.by Mr. Paul Abraham Vakkanal]

The application having been heard on 14-1-2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant, who is a Primary Teacher in Kendriya Vidyalaya Sangathan (KVS), INS Dronacharya, Kochi, challenges Annexure A4 memorandum dated 15-12-2003 whereby, on his promotion as Trained Graduate Teacher (TGT) (Maths), the applicant has been transferred and posted at KVS, Dharchula, Uttaranchal. The posting on promotion is to take effect from 1-4-2004, as per the impugned Annexure A4 order. Along with

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Annexure A4 the respondents have also enclosed a proforma for acceptance of offer of promotion. On receipt of his promotion order, the applicant, by Annexure A5 representation to the 2nd respondent, explained certain personal problems and further pointed out that TGTs (Maths) appearing at 32, 54 and 59 of Annexure A4 order and posted at Moradabad, IVRI Bareilly and Shahjahanpur respectively are not inclined to accept the respective place of posting and requested that he be considered for posting at K.V, No.I Shahjahanpur, IVRI Bareilly or Moradabad. Annexure A5 representation was, apparently, forwarded by the 3rd respondent to the 2nd respondent under Annexure A6 communication dated 29-12-2003. The applicant's grievance is that when there were TGT (Maths) posts available at Shahjahanpur, Moradabad and Bareilly, the applicant could be easily considered for posting in one of the stations, particularly in view of the fact that he has not been favoured with posting in his own State. The applicant seeks an order from this Tribunal setting aside Annexure A4 dated 15-12-2003 in so far as it gives the applicant a transfer and posting from INS Dronacharya to Dharchula and directing the 1st respondent to consider Annexure A5 representation and explore the feasibility of accommodating the applicant at Shahjahanpur instead of Dharchula.

2. Mr. Paul Abraham Vakkanal representing M/s Iyer and Iyer, counsel for the respondents, objects to the admission of the OA on the ground that the applicant has not submitted the proforma unconditionally accepting the promotion in the first place and that, therefore, there was no question of considering any change of station. It is also pointed out by the learned counsel that posting to Dharchula could not be construed as a transfer and that it was a posting on promotion. Posting on promotion to a station other than the station where the employee has been working is unavoidable for many reasons. It

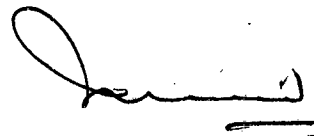
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was in the administrative exigency that the applicant was posted on promotion to Dharchula. Since he has not even accepted the promotion, there was no question of posting him in any other station. However, on being pointed out by the learned counsel for the applicant that the applicant has submitted a representation in which he has expressed his willingness to accept the promotion and has also made a request to receive the duly filled proforma accepting promotion as TGT (Maths) and has made a further request for a change of station from Dharchula to Shahjahanpur, the learned counsel for respondents states that the 1st respondent will have no objection to consider such representation, if received.

3. On the basis of the above submission, I consider it proper to dispose of this Original Application with the observation that the applicant's prayer cannot be granted on the present facts and circumstances and that if at all an order is to be made in this regard, it is for the administrative authority, namely the 1st respondent, to act on the representation, if any, made by the applicant in that regard in adherence to the extant instructions and orders on the subject.

4. Accordingly, the Original Application is disposed of without prejudice to the applicant pursuing his representation with the higher authorities and the 1st respondent passing appropriate orders as he deems fit thereon. No order as to costs.

Wednesday, this the 14th day of January, 2004



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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