

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.127/07

Wednesday this the 14th day of March 2007

C O R A M :

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

Vijayakumar T.M.,
S/o.Marimuthu Konar,
Catering Assistant,
Jawahar Navodaya Vidyalaya, Malappuram.
Permanent resident : Sree Durga,
P.O.Engineering College, Mannamkkodu, Thrissur.

...Applicant

(By Advocate Mr.P.Ramakrishnan)

Versus

1. Navodaya Vidyalaya Samithi,
A-28, Kailash Colony, New Delhi – 110 048
represented by its Commissioner.
 2. The Deputy Commissioner,
Navodaya Vidyalaya Samithi
(Hyderabad Region), 36, Sartasukhi Colony,
W Maredpally, Secunderabad – 26.
 3. The Principal,
Jawahar Navodaya Vidyalaya,
O.K.Muri P.O., Malappuram.
 4. The District Collector & Chairman of VMC,
Jawahar Navodaya Vidyalaya, Collectorate, Malappuram.
 5. V.B.Sudha,
Principal,
Jawahar Navodaya Vidyalaya, Malappuram.
- ...Respondents

(By Advocate Mr.M.K.Damodaran)

This application having been heard on 14th March 2007 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicant herein is a Catering Assistant, Jawahar Navodaya Vidyalaya, Malappuram and is aggrieved by Annexure A-4 impugned order

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relieving him of his duties with effect from the afternoon of 20.2.2007 with a direction to report to the Deputy Commissioner, NVS, Hyderabad. The following grounds have been taken by the applicant (1) the 3rd and the 4th respondents have no power to order transfer and postings of employees of the Vidyalayas (2) Annexure A-4 has been issued on the instruction of the 4th respondent who has no disciplinary or other powers over the applicant and the power rest with the Vidyalaya Management Committee (3) Annexure A-4 is punitive in nature (4) that he has had a punishment free tenure and the impugned order is issued with mala fide intention.

2. When the application came up for admission, an interim order was passed that if the relief of the applicant had not become irreversible it will remain so. The interim order was communicated on 27.2.2007.

3. Respondents have filed a reply statement in the first instance denying the allegations. They have stated that the NVS is a Residential School and the District Collector is ex-officio Chairman of Vidyalaya Management Committee having responsibility over its management. On 12.2.2007 there was a blast of the boiler in the kitchen and some staff members have been injured. The applicant was entrusted with the operation of the newly installed boiler and he had left the boiler to be operated by a fellow worker on account of which the blast has seems to have occurred. The preliminary inquiry has been held by the Vice Principal which revealed negligence on the part of the applicant as the cause for the incident. The matter was, therefore, taken up with the 2nd respondent and also the 4th respondent and pursuant to the direction of the 4th respondent, the 3rd respondent issued the impugned directions. It is further submitted that the impugned order is not a relieving order consequent to a transfer

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"but it is a formal order relieving the applicant with a direction to report before the 2nd respondent." The respondents have been directed on the next date of hearing to report whether the interim order of this Tribunal was implemented and the averred intention behind the issue of the impugned order if it was not a transfer order. They filed an additional reply statement in which they have submitted that vide order dated 20.2.2007 the applicant stands relieved. The applicant has refused to receive the relieving order and therefore it was affixed on the door of the applicant. Since the applicant has thus relieved on the afternoon of the 20.2.2007 on the basis of Annexure A-4 order, the interim order had become inoperative. The applicant had left the quarters and the Vidyalaya premises on 20.2.2007 itself and he has never reported before the Deputy Commissioner, Hyderabad nor reported for duty at the Navodaya Vidyalaya. Hence he has to be treated as unauthorisedly absent since the afternoon of 20.2.2007.

4. I have heard the counsel for both the sides. The prayer of the applicant mainly is regarding his relief from the post as if it is a disciplinary proceedings and for retention at the same place so that he can complete his tenure. The submissions of the respondents are that the impugned order is neither a punitive order nor has it the colour of a transfer order but is a normal relief order which is being issued to the employees of the Vidyalaya in a situation where they have to report for out station duty and since the applicant was directed to report before the Deputy Commissioner of Hyderabad in keeping with the normal procedure being adopted by the Vidyalaya he has been issued this order. Statement of the respondents in Para 2 of the additional reply statement confirms the above position. I have perused Annexure R-3(IV), (V) & (VI) orders enclosed with the

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additional reply statement which are more or less on the same line as the impugned order. Therefore, taking note of the above submission of the respondents in the additional reply statement and also in the earlier reply statement in Para 1 therein, it can be construed that the impugned order is not a transfer order of the applicant and is only an order issued to enable him to report before the Deputy Commissioner at Hyderabad. Counsel for the applicant fairly submitted that in keeping with this submission of the respondents the applicant is prepared to report before the Deputy Commissioner at Hyderabad in obedience to this order if it is not to be treated as his relief order and if he is allowed to join back to the same post. Let this be done within the shortest possible time. The other contention of the applicant regarding the competency of the 4th respondent and regarding his unauthorised absence from the Vidyalaya premises from 20.2.2007 onwards are matters which can be agitated before the appropriate forum at the appropriate time. Hence I dispose of this O.A by consent of both parties recording the submissions of both the counsel. No order as to costs.

(Dated the 14th day of March 2007)


SATHI NAIR
VICE CHAIRMAN

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