

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.153/2000

Monday, this the 14th day of February, 2000.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR G RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Jainamma Rajan,
L.D. Clerk,
Kendriya Vidyalaya,
Port Trust, Cochin.

...Applicant

By Advocate A.K. Avirah

Vs.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area,
Shaheed Jit Singh Marg,
New Delhi.
2. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area,
Shaheed Jit Singh Marg,
New Delhi.
3. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Madras.
4. Mr.S. Sreekantan Nair,
U.D. Clerk,
Kendriya Vidyalaya,
N.T.P.C. Kayamkulam.
5. Mr. Shaji B.,
U.D. Clerk,
Kendriya Vidyalaya,
Ernakulam.
6. A. Thangamani,
L.D.C.,
Kendriya Vidyalaya,
Coimbatore - 28.
7. Union of India represented by Secretary,
Human Resources Development Department,
New Delhi.

...Respondents

By Advocate Mr. Thottathil B. Radhakrishnan

The application having been heard on 14.2.2000, the
Tribunal on the same day delivered the following:

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ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks the following reliefs:

- "(i) quash Annexure A-1 Memorandum of the 1st respondent to the extent it withdraw applicant's promotion as U.D. Clerk ordered in Annexure A-4 and debarring her for a period of 5 years with effect from 30.10.1999;
- (ii) declare that the applicant is having every right to get considered her request of posting at Kendriya Vidyalaya Port Trust, Cochin or in Kendriya Vidyalaya Naval Base, Ernakulam where there are open vacancies in modification of the posting order issued in Annexure A-4 order of the 2nd respondent in the facts and circumstances of the case;
- (iii) command respondents 1 & 2 to post the applicant as U.D. Clerk as prayed for by her in Annexures A-6, A-7, A-8 and A-9 in modification of the posting order issued to her at Kendriya Vidyalaya Pattom, Thiruvananthapuram in Annexure A-4 order; and
- (iv) grant such other reliefs as this Hon'ble Tribunal may deem fit, proper and just to grant in the premises of the case."

2. As per Rule 10 of the Central Administrative Tribunal (Procedure) Rules, an application shall be based upon a single cause of action or may seek one or two reliefs which are consequential to one another. There are three reliefs sought and the reliefs are not consequential to one another. They are distinct and different prayers arising out of distinct and different causes of action. On that ground alone, the O.A. is not maintainable.

3. The applicant is praying to quash A-1 as per which her promotion is withdrawn and debarred for a period of five years with effect from 30.10.1999. A-4 is the order as per which the

contd..3/-



applicant was promoted along with certain others as Upper Division Clerk. There, it is specifically stated thus:

"If they fail to report for duty at the said Kendriya Vidyalayas within the stipulated date given above, this offer of promotion would automatically be treated as withdrawn and they would be debarred from getting further promotion for a period of five years with attendant consequences on seniority etc."


4. The applicant is not having any grievance against A-4 and the attack is against A-1. A-1 is issued on the basis of A-4 and as it is specifically stated in A-4 that failure to report for duty at the concerned Kendriya Vidyalaya would result in debarring from getting further promotion for a period of five years. So, in the absence of any challenge to A-4, the question of quashing A-1 cannot be prima facie looked into.

5. The second relief sought is to declare that the applicant is having every right to be considered for posting at Kendriya Vidyalaya Port Trust, Cochin or in Kendriya Vidyalaya Naval Base, Ernakulam where there are open vacancies. The third prayer is to command respondents 1 & 2 to post the applicant as Upper Division Clerk as prayed for by her in Annexures A-6, A-7 A-8 & A-9.

6. Though the applicant says that A-9 is a true copy of the joint application submitted by her and two others, from the same it is seen that she is not a signatory to the same.

7. It is well settled that transfer which is an incident of service is not to be interfered with by Tribunal or Court unless shown to be clearly arbitrary or malafide. There is no legal

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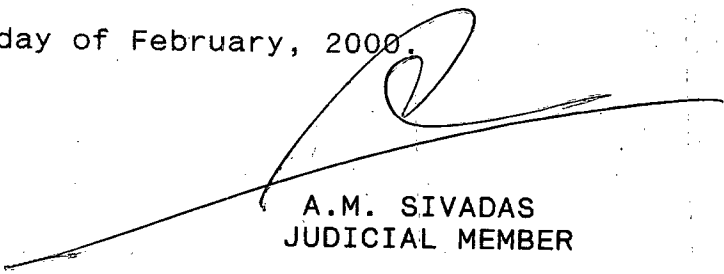
right for an employee to insist for being posted at any particular place. Employee has no choice in the matter of posting. In the absence of strong and compelling grounds, an order of transfer cannot be subjected to judicial review.

8. We do not find any ground to admit this O.A.

9. Accordingly, the O.A. is dismissed.

Dated this the 14th day of February, 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

nv/14/2/2000

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-1: True copy of Order No.F-20(4)/99-KVS(E.iv) dated 23.12.99 of the 2nd respondent.
2. Annexure A-4: True copy of Memorandum No.F.4-20(4)/99-KVS(E.iv) dated 30.10.1999 issued by the 2nd respondent.
3. Annexure A-6: True copy of representation dated 6.11.99 sent by the applicant to the 2nd respondent.
4. Annexure A-7: True copy of representation dated 17.11.1999 sent by the applicant to the 1st respondent.
5. Annexure A-8: True copy of representation dated 25.11.99 sent by the applicant to the 2nd respondent.
6. Annexure A-9: True copy of joint petition dated 29.11.1999 submitted before the 1st respondent by 3 members including the applicant.