

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.160/2002

Friday this the 8th day of March, 2002

CORAM

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

V.R.Gopinathan Nair,
aged 56 years, S/o Raman Nair,
Primary Teacher, Kendriya Vidyalaya,
Adoor, residing at Vattappara Veedu,
Prakkanam PO, Elanthoor,
Pathanamthitta.Applicant

(By Advocate Mr. P.Ramakrishnan/Mrs.Preethy Ramakrishnan)

V.

1. Kendriya Vidyalaya Sangathan,
represented by the Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016.
2. The Deputy Commissioner (Fin)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi- 110 016.
3. The Principal,
Kendriya Vidyalaya, Adoor.
4. Smt. Valsala Bose,
Primary Teacher,
Kendriya Vidyalaya II,
Port Blair.
5. Shri V.Joseph Manjumalai,
PRT, Kendriya Vidyalaya,
Pallippuram. ...Respondents

(By Advocate **Mr.Thottathil B Redhakrishnan(R1-3)**)

The application having been heard on 8.3.2002, the Tribunal
on the same day delivered the following:


O R D E R

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

The applicant a Primary Teacher, Kendriya Vidyalaya
Adoor was as part of the general order of transfer dated

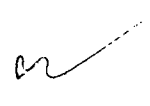
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10.11.2000 transferred and posted to Kendriya Vidyalaya, Port Blair. The transfer of the applicant was under clause 10(1) of the Kendriya Vidyalaya Sangethan's transfer guidelines for accommodating the 4th respondent who had completed the tenure in Port Blair and the applicant was the seniormost teacher in that grade working in Kendriya Vidyalaya, Adoor. Aggrieved by the transfer the applicant, filed OA 1258/2000 which was rejected. Dissatisfied by the rejection of his OA the applicant approached the Hon'ble High Court of Kerala by filing OP No.33805/2000. This OP alongwith a similar OP 32720/00 was disposed of by order dated 11.10.2001. Taking note of a submission made by a counsel for the petitioners that Kendriya Vidyalaya had then published new transfer norms, at the request on behalf of the petitioners the OP was dismissed permitting the petitioners to make a representation for consideration by the 1st respondent under the new guidelines directing the 1st respondent that if such representations are made they would be considered and disposed of. The applicant pursuant to the above order of the Hon'ble High Court made a representation Annexure.A5 claiming that as a post of Headmaster was falling vacant in the Kendriya Vidyalaya, that he might be given promotion to that post, that in case he is to be shifted, he may be accommodated in the order of preference either in Kendriya Vidyalaya, Rubber Board, Kottayam, Kendriya Vidyalaya, NTPC, Kayamkulam or Kendriya Vidyalaya, Pattom, Trivandrum. The first respondent has in obedience to the orders of the Hon'ble




High Court of Kerala on consideration of the representation (Annexure.A5) submitted by the applicant issued the impugned order dated 14.2.2002 declining to accept the request of the applicant on the ground that as the 4th respondent had completed her tenure in Port Blair and the applicant being the person with longest stay in Adoor he had to be shifted and that the order has been made only in Public Interest. However, it has been indicated that the applicant might apply for his choice places at the time of calling for requests for transfer.

2. Aggrieved by this order, the applicant has filed this application seeking to quash the Annexure.A6 order as also the order of the third respondent relieving the applicant from Kendriya Vidyalaya, Adoor on the forenoon of 19.2.2002 with a direction to the applicant to report for duty at Kendriya Vidyalaya No.II, Port Blair. It is alleged in the application that the 4th respondent having shown Kendriya Vidyalaya, Trivandrum as the first choice in her request, she should have been accommodated there and the transfer of the applicant could have been avoided as the teachers with much longer stay at Trivandrum are still continuing there. It has been further alleged that by her conduct in not appearing before the Hon'ble High Court of Kerala though impleaded as a respondent in the OP and not making any move for getting herself relieved even after the disposal of the OP, it appears that the 4th respondent is not interested in a posting to Kendriya Vidyalaya, Adoor and



therefore, the displacement of the applicant and her relief from Kendriya Vidyalaya, Adoor under Annexure.A7 order is unwarranted and unjustified.

3. I have gone through the application and all the annexures appended thereon and have heard Smt. Preethy Ramakrishnan, learned counsel appearing for the applicant and Shri Thottathil B.Radhakrishnan for the respondents. The learned counsel of the respondents stated that no fresh transfer guidelines other than the guidelines which was prevalent on the date on which the Annexure.A1 order of transfer was issued has been formulated by the Kendriya Vidyalaya Sangathan. He also stated that the transfer of the applicant having been necessitated to accommodate the 4th respondent who had completed her tenure at Port Blair on her request and the applicant being the person with longest stay in the station on a perusal of the application and connected papers I do not find any reason to entertain this application. The transfer of its teachers from one Kendriya Vidyalaya to another is a routine administrative matter of the Kendriya Vidyalaya Sangathan. When teachers posted in distant places complete their tenure the administration has to accommodate them to the extent possible at the place of their choice. Such a dispensation is in public interest. In that process those who had been working for comparatively longer period may have to be displaced. While doing so some inconvenience to some teachers is inevitable. Judicial intervention in such occasion can be justified only if the



transfer is malafide or in a totally arbitrary manner. In this case we do not find any allegation of malafide or extreme arbitrariness for us to exercise jurisdiction. That the 4th respondent could have been accommodated at Trivndrum and the transfer of the applicant could have been avoided does not appear to us as sufficient reason for exercising jurisdiction. In the representation Annexure.A5 the applicant had not mentioned that there were teachers with longer stay in Trivandrum. Therefore, we do not even prima facie find any reason to entertain this application challenging Annexures.A6 and A7.

4. In the light of the above discussion, the OA is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated this the 8th day of March, 2002


A.V. HARIDASAN
VICE CHAIRMAN

(S)

A P P E N D I X

Applicants Annexures:

1. A-1: True copy of Transfer order No.F.2-1(14)(P-I)2000-KVS (E.IV) dt.10.11.2000.
2. A-2: True copy of representation dt.22.11.2000 from the applicant to the 1st respondent.
3. A-3: True copy of request for Transfer dt.20.9.01 submitted by the applicant.
4. A-4: True copy of judgement dt.11.10.01 in OP No.32720&33805 of 2000.
5. A-5: True copy of representation dt.20.12.01 from the applicant to the Assistant Commissioner, Chennai.
6. A-6: True copy of Memorandum No.F.No.19-493(3) 2000-KVS(L&C) dated 14.2.02 issued by the 1st respondent.
7. A-7: True copy of Relieving order No.F.1-1/KV/ADR/2001-2001/816 dt 19.2.2002 issued by the 3rd respondent.
8. A-8: True copy of representation dt.23.2.02 from the applicant to the 1st respondent.

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14.3.02