

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.219/2001.

Monday this the 22nd day of October 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.B.K.Unnithan, PGT (Physics),
Kendriya Vidyalaya,
Pangode, Trivandrum.

Applicant

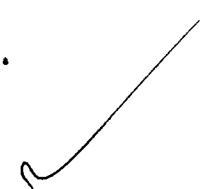
(By Advocate S/Shri K.P.Dandapani & Millu Dandapani)

Vs.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016.
 2. The Deputy Commissioner (Finance),
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016.
 3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
I.I.T.Campus, Chennai 600 036.
 4. The Education Officer,
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
 5. The Principal, Kendriya Vidyalaya,
Pangode-695 006.
 6. The Principal, Kendriya Vidyalaya,
NEHU Shillong,
Meghalaya, Pin-793 001.
 7. Shri M. Ramachandran,
PGT (Physics),
Kendriya Vidyalaya, Pangode-695 006.
now working on temporary arrangement
at Kendriya Vidyalaya, CLRI,
Chennai- Pin 600 036.
- Respondents

(By Advocate Shri Thottathil B. Radhakrishnan (R.1-6))
(By Advocate Shri Vinod Chandran (R-7))

The application having been heard on 22nd October 2001
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 Post Graduate Teacher (Physics), Kendriya Vidyalaya, Pangode, Trivandrum has filed this application aggrieved by the order dated 22.12.2000(A1) to the extent of his transfer to Kendriya Vidyalaya, Nehu, Shillong and the order dated 22.2.2001 (A4) of the first respondent rejecting his representation for retention and cancellation of his transfer. The applicant has assailed the order A-1 on various grounds including that a lady Teacher who had longer stay than the applicant has not been disturbed and that the applicant's wife having been transferred from Chennai to Cochin, the impugned order of transfer would annul the benefit given to his spouse in terms of A-6 dated 3.4.86, that the transfer after 31st August has been prohibited by the clause 6 of the guidelines and that the impugned order of transfer made purportedly under the guidelines is unsustainable because it is in violation of clause 6 and that the impugned order of transfer would cause the applicant undue hardship. The order A-6 has been assailed on the ground that the first respondent has not adverted to the relevant aspects especially that the applicant has been transferred in violation of the clause 6 of the guidelines.

2. The official respondents in their reply statement inter-alia seek to justify the impugned action on the ground that as there has been 12000 requests for transfer to the choice stations, after completion of tenure in distant and difficult stations, the whole process could not be sorted out



in time and therefore, the transfer of the applicant had to be made beyond 31.8.2000 on administrative grounds. The 7th respondent in his reply statement sought to justify his transfer on the ground that it was after serving for more than seven years in Shillong that he has been given a transfer to his choice station by the impugned order.

3. We have heard the learned counsel on either side. The impugned order of transfer as also the order A-4 are being sought to be justified on the ground that A-1 order was issued under clause 10(i) of the Transfer guidelines in conformity with the transfer policy contained in the guidelines.

4. Clause 6 of the transfer guidelines copy of which is at A-5 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."


5. It is evident from the above quoted clause that transfer beyond 31st August can be justified only on urgent administrative grounds. Accommodating a person in a choice station after he has served a tenure in a distant or difficult station cannot be treated as an urgent administrative reason for such transfer for such postings can be regulated



conveniently as per norms during annual transfer. Learned counsel of the respondents brought to our notice clause 3 of the transfer guidelines in A-5 which reads as follows,

"In terms of their all India transfer liability, all the employees of the KVS are liable to be transferred at any time depending upon the administrative exigencies/grounds, organisational reasons or on request, as provided in these guidelines. The dominant consideration in effecting transfers will be administrative exigencies/ground and organisational reasons including the need to maintain continuity, uninterrupted academic schedule and quality of teaching and to that extent the individual interest/request shall be subservient. There are mere guidelines to facilitate the realization of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making requests not do these guidelines intend to confer any such right."

and argued that the Commissioner can issue orders of transfer deviating from the guidelines to tide over administrative exigencies. Clause 3 as quoted by the learned counsel is a general clause and clause 6 is a specific clause which states that normally annual transfer should be made during the summer vacation and in any case not beyond 31st August except on extreme administrative grounds. The impugned order to the extent of transfer of the applicant to accommodate a person who had served for a tenure in Shillong should have been issued during Summer vacation as such transfers are to be regulated during annual transfers. No administrative urgency could be found in accommodating such request. If for some reasons the posting of persons who had completed tenure in difficult station could not be finalised even on 31st August, such posting should have been deferred to next general transfer. Hence, the transfer of the applicant under Annexure A-1 cannot be sustained as it was made beyond 31st August, without any pressing administrative grounds.



6. In the light of what is stated above, we find that the impugned order of transfer (A1) of the applicant from KV Pangode to Shillong cannot be justified and the order has to be set aside. We do so. However, we make it clear that the official respondents if they consider it necessary to transfer the applicant for any valid reason, they are free to do so but according to rules.

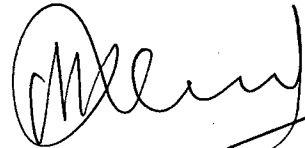
7. In the light of what is stated above, the impugned order A-1 to the extent it affects the applicant is set aside and A-4 is also set aside.

8. O.A. is allowed accordingly. No costs.

Dated the 22nd October, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: Copy of transfer order No.F.8-1(D)/2000-KVS (ESTT.III) dated 22.12.2000 issued by the 4th respondent to the applicant.
2. Annexure A2: Copy of order of this Honourable Tribunal dated 12.1.2001 in O.A.24/2001.
3. Annexure A3: Copy of representation submitted by the applicant before the 1st respondent on 20.1.2001.
4. Annexure A4: Copy of Memorandum No.F.19-73(3)/2001 dated 22.2.01 of the 1st respondent issued to the applicant.
5. Annexure A5: Copy of Transfer Guidelines referred to ⁱⁿ the Original Application.
6. Annexure A6: Copy of Office Memorandum No.28034/7/86-ESTT(A) dated 3.4.86 of the Joint Secretary to Government of India Ministry of Personnel, P.G. & Pensions, Dept. of Personnel and Training.
7. Annexure A7: Copy of Office Memorandum No.28034/7/97-Estt.(A) dated 12.6.1997 of the Joint Secretary to Govt. of India, M/o Personnel, Public Grievances & Pensions, Department of Personnel & Training.
8. Annexure A8: Copy of Transfer Cancellation Order No.F.7-1 (D)/2000-KVS (ESTT.III) dated 23.1.2001 of the 2nd respondent issued to Shri H.P.S. Chauhan and others.
9. Annexure A9: Copy of Transfer Cancellation Order No.F.3-1 (DT)/2000-KVS (E.IV) dated 24.1.2001 of the 2nd respondent issued to Shri U K Das.
10. Annexure A10: Copy of the Orders in OP No.21647/2001 dated 10.8.2001 of the Hon'ble High Court of Kerala.
11. Annexure A11: Copy of the List No.1 prepared by the respondents for transfer.
12. Annexure A12: Copy of the List No.2 prepared by the respondents for transfer.
13. Annexure A13: Copy of the order of this Honourable Court in O.A. No.558 of 2001 dated 7.9.2001.

RESPONDENT'S ANNEXURE

NIL

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