

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 228/02

Monday this the 22nd day of April, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

M.Sujatha
W/o Mohan
Primary Teacher (PRT) Kendriya Vidyalaya
Puranattukara, Thrissur
Residing at Anjali, Vivekananda Road
P.O.Puzhakkal, Thrissur. ...Applicant.

(By advocate Mr.P.Ramakrishnan)

Versus

1. The Kendriya Vidyalaya Sangathan
18 Institutional Area, Shaheed Jeet Singh Marg
New Delhi 110 016 rep. by its Commissioner.
2. The Deputy Commissioner (Admn)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi.
3. The Principal
Kendriya Vidyalaya
Puranattukara P.O.
Thrissur.
4. M. Jayasree, PRT Kendriya Vidyalaya No.II
Port Blair. ...Respondents.

(By advocate Mr.Thottathil B.Radhakrishnan R1-3).

The application having been heard on 22nd April, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant aggrieved by A-2 transfer order dated 2.4.02 issued by the 2nd respondent transferring her from Kendriya Vidyalaya, Thrissur to Kendriya Vidyalaya, No.II Port Blair and A-3 order dated 5.4.02 issued by the 3rd respondent relieving her with effect from the afternoon of 5.4.02 has filed this Original Application seeking the following reliefs:

- (a) Issue an order quashing and setting aside A-2 & A-3 to the extent it transfers the applicant to Port Blair.



- (b) Hold that the teacher with the longest stay at Thrissur is liable to be transferred out to accommodate the 4th respondent.
- (c) Hold that the applicant is not liable to be transferred from Thrissur to accommodate the 4th respondent.
- (d) Issue such other orders and directions as are deemed fit in the facts and circumstances of the case.

2. According to the applicant, Clause 10(1) of A-1 Guidelines provide for displacing the teacher with the longest stay at a station in order to accommodate a teacher who has requested for posting at that station. Smt.Saramma Abraham, M.J.Jeroney, Dolly, Sunantha and Sri Venugopalan had longer stay at Kendriya Vidyalaya, Puranattukara, Thrissur than the applicant and that one of them should have been displaced for accommodating the 4th respondent rather than she.

3. Respondents filed reply statement resisting the claim of the applicant. According to them, the transfers of Smt.Sunantha, Mukundan and Sri Venugopalan stood stayed by this Tribunal and the OAs filed by them had not been finally decided because OP No.23142 of 1999 filed in the High Court of Kerla was still pending. As regards the cases of Saramma Abraham, M.J.Jerone and Dolly Paulsy even though had been disposed of by this Tribunal directing the Commissioner, KVS to consider their representations and to keep their transfers in abeyance until then, no final decision had been taken in their cases due to the interim orders passed by the Hon'ble High Court of Kerala.

4. When the OA came up for admission on date, we heard the learned counsel for the parties. Learned counsel for the applicant submitted that the O.P. pending in the High Court of Kerala was regarding the reduction in the strength of divisions



in the Kendriya Vidyalaya, Thrissur and the same should not stand in the way of the respondents considering the cases of teachers with longer stay than the applicant for transfer out of Thrissur to accommodate the teacher who had applied for transfer to Thrssur. He submitted that this Tribunal had directed that the representations of Saramma Abraham, M.J.Jerone and Dolly Paulsy were to be considered by the Commissioner and till then the transfers were to be kept in abeyance. According to him, to consider the case of the applicant for transfer when the above named seniors have not been considered was illegal.

5. Learned counsel for the respondents reiterated the points made in the reply statement.

6. On a careful consideration of the submissions made by the learned counsel for the parties and the pleadings and after going through the documents brought on record, we are of the view that the applicant does not have a subsisting cause of action to approach this Tribunal against the transfer. The main plea of the applicant is based on the guidelines issued by the Kendriya Vidyalaya Sangathan in para 10(1). Para 10(1) of the Guidelines reads as under:

"10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NII and hard stations and 5 years elsewhere at places which were not of his choice or by teachers falling under the Provisio to para 7 of these Guidelines or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay at that station provided they have served for not less than 5 years at that station. Provided that Principals who have been retained under para 4 to promote excellence would not be displaced under this Clause."



7. Respondents admit that the teachers mentioned in the OA by the applicant are senior to the applicant but they have explained the reason as to why they have not been considered. What we find is they have already been transferred on becoming surplus. It is only by virtue of the orders of this Tribunal that their transfer orders have not been implemented. We also find that against the reduction in the number of divisions, an OP is pending in the Hon'ble High Court of Kerala and by virtue of that out of the 5 teachers stated by the applicant in two cases this Tribunal had stayed the transfer orders. When such is the case, if the respondent Commissioner had not been able to dispose of the representation, we cannot find any infirmity in the same.

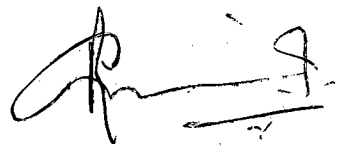
8. Further the guideline quoted above does not have a statutory force and the applicant does not get any right by such a guideline. A Guideline is for the guidance of the authorities concerned in issuing transfer orders. That by itself does not clothe the applicant with any enforceable right especially when the respondents have explained why a deviation had been made.

9. Under the above circumstances, we find no merit in this OA and accordingly we dismiss the same at the admission stage.

10. No costs.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of transfer guide lines of Teachers of Kendriya Vidyalaya Sangathan.
2. A-2: True copy of order No.F2-1(D) (PRT/532)/2002/KVS (Estt-IV) dated 2.4.02 issued by the 2nd respondent.
3. A-3: True copy of order No.1-5/KV TCR/2002-03/60 dated 5.4.02 issued by the 3rd respondent.

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