

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.257/2002

Friday, this the 4th day of October, 2002.

CORAM :

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

A.M. Annakutty,
W/o Shri George Joseph,
Trained Graduate Teacher(Hindi),
Jawahar Navodaya Vidyalaya,
Vadavathoor, Kottayam,
residing at Karikuzhi House,
Thalappally West, Rubber Board P.O.,
Kottayam-9.

... Applicant

(By Mr. Siby Mathew & Mr. M.A. Shihabuddin)

Vs

1. Union of India, rep. by its
Secretary,
Ministry of Human Resources Development,
New Delhi.
2. Navodaya Vidyalaya Samithi,
rep. by its Director,
Admn. Block, IG Stadium, IP Estate,
New Delhi - 110002.
3. Deputy Director,
Navodaya Vidyalaya Samithi,
Hyderabad Region,
6-1-119/C/1, Skandagiri Road,
Secunderabad-500025.
4. Principal,
Jawahar Navodaya Vidyalaya,
Vadavathoor, Kottayam.
5. K.A. Mathew,
Principal,
Jawahar Navodaya Vidyalaya,
Vadavathoor, Kottayam.

... Respondents

[By Mr. Mathews J. Nedumpara(R 2&3)
Mr. V.V.N. Menon(R-5)]

The application having been heard on 4.10.2002, the
Tribunal on the same day delivered the following :

ORDER


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

The applicant, a Trained Graduate Teacher(Hindi), Jawahar
Navodaya Vidyalaya(JNV for short), Kottayam has filed this
application impugning the orders dated 8.4.2002 of the 3rd

respondent transferring the applicant from JNV, Kottayam to JNV, Mandya, Karnataka and order dated 9.4.2002 issued by the 4th respondent relieving the applicant from JNV, Kottayam, for a declaration that the transfer of the applicant from JNV, Kottayam to JNV, Mandya, Karnataka is vitiated by malafides and is punitive in nature and totally unjustified when an enquiry on her complaint of sexual harassment against the 5th respondent was going on and for a direction to the respondents to implement the guidelines laid down by the Apex Court in the case of Vishaka Vs State of Rajasthan reported in (1997) 6 SSC 241 to prevent and expressly prohibit sexual harassment in workplaces and to direct the respondents to allow the applicant to continue at JNV, Kottayam without regard to the impugned orders. The impugned orders have not produced by the applicant stating that at the time of filing of the OA, the impugned orders were not served on her. It is alleged in the application that the 4th respondent who is impleaded in personal capacity as the 5th respondent has been sexually harassing the applicant, that the transfer of the applicant from Kottayam to Mandya, Karnataka was malafide and punitive in nature and it has caused undue hardship to the applicant.

2. The respondents 2 to 3 have filed reply statement opposing the application.

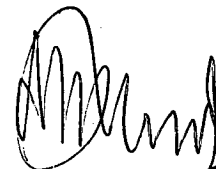
3. As the applicant had already been relieved, she had applied for leave and when the application came up for hearing on 27.8.2002, the learned counsel for the official respondents undertook to see that the leave applied for by the applicant would be granted. The applicant has applied for leave as her husband is mentally sick.



4. During the pendency of the case, the 5th respondent has been transferred to Delhi as Assistant Director in the Samithi Headquarters, New Delhi. In the light of the facts of the case and the development that the 5th respondent has already been transferred to Delhi, I feel that the appropriate course should be to permit the applicant to make a representation to the 2nd respondent, the Director for a posting back to JNV, Kottayam where the vacancy still exists or to any other convenient station in Kerala and directing the 2nd respondent to consider the representation of the applicant sympathetically taking into account the fact that her husband is suffering from mental ailment requiring her care and attention and to give her an appropriate reply as early as possible.

5. In the light of what is stated above, without going into the merits of the case, I dispose of this application permitting the applicant to make a detailed representation to the 2nd respondent highlighting her personal difficulties and seeking a posting either to JNV, Kottayam or to any other place in Kerala within 15 days from the date of receipt of a copy of this order and directing the 2nd respondent that if such a representation is received, the same shall be considered sympathetically after giving the applicant a personal hearing and taking into account the fact that her husband who is mentally sick requires her care and attention and an appropriate reply given to the applicant as early as possible. I also direct that till the 2nd respondent's decision is communicated to the applicant, the applicant should be granted leave which is admissible. No costs.

Dated the 4th October, 2002.



A.V. HARIDASAN,
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Medical Certificate dated 27.3.2002 issued by Dr.Suresh Ninan, Bharath Hospital, Kottayam.
2. A-2: True copy of the Office Memorandum No.PE/AMA/JNVK/2001-2002 dated 6.2.2002 of the 4th respondent.
3. A-3: True copy of the Note of the 4th respondent.
4. A-4: True copy of the representation dated 12.2.2002 of the applicant to the 4th respondent.
5. A-5: True copy of the representation dated 20.2.2002 of the applicant to the 3rd respondent.
6. A-6: True copy of the Office Order No.PE/AMA/JNVK/2001-2002/631 dated 21.1.2002 of the 4th respondent.
7. A-7: True copy of the Office Order No.PW/AMA/JNVK/2001-2002/630 dated 21.2.2002 of the 4th respondent.
8. A-8: True copy of the Office Order No.PE/AMA/JNVK/2001-2002/634 dated 21.2.2002 of the 4th respondent.
9. A-9: True copy of the Office Memorandum No.PE/AMA/JNVK/2001-2002/632 dated 21.2.2002 of the 4th respondent.
10. A-10: True copy of the representation dated Nil of the applicant to the 4th respondent.
11. A-11: True copy of the representation dated 21.2.2001 of the applicant to the respondent No.3.
12. A-12: True copy of the Order No.PE/AMA/JNVK/2001-2002/636 dated 22.2.2002 of the 4th respondent.
13. A-13: True copy of the Order No.PE/AMA/JNVK/2001-2002/636 dated 22.2.2002 of the 4th respondent.
14. A-14: True copy of the Order No.PE/AMA/JNVK/2001-2002/638 dated 25.2.2002 of the 4th respondent.
15. A-15: True copy of the representation dated 26.2.2002 before the District Collector, Kottayam.
16. A-16: True copy of the representation dated --3-2002 of the applicant to the applicant to the 4th respondent.
17. A-17: True copy of the representation dated 5.3.2002 of the applicant to the 4th respondent.
18. A-18: True copy of the representation dated 5.3.2002 of the applicant to the 4th respondent.
19. A-19: True copy of the Order No.Inquiry/2000-2002 dated March 2002 of the Enquiry Committee.
20. A-20: True copy of the Order No.Inquiry/2000-2002 dated 16 March 2002 of the Enquiry Committee.
21. A-21: True copy of the Order No.F.No.2-1/2002-NVS(Estt.) dated 5.2.2002 of the 2nd respondent.
22. A-22: True copy of the representation dated 28-3-2002 of the applicant before the 3rd respondent.
23. A-23: Photocopy of Office Order dated 31.1.2002 issued by the 4th respondent.
24. A-24: Photocopy of the Certificate issued by Dr.Suresh Ninan dated 19.6.2002.

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10.10.02