

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 271/2007

Tuesday this the 24th day of April, 2007

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

G.R.Chandralekha,
Post Graduate Teacher (English)
Kendriya Vidyalaya/Adoor,
Pathanamthitta District,
residing at Kelleckal House,
Karuvattu, Adoor PO,
Pathanamthitta District.

.....Applicant

(By Advocate Mr. T.C.Govindaswamy)

Vs.

- 1 The commissioner,
Kendriya Vidyalaya Sangathan,
18-Institutional Area,
Shahid Jeet Singh Marg,
New Delhi-110 016.
- 2 The Education Officer,
Kendriya Vidyalaya Sangathan,
18-Institutional Area,
Shahid Jeet Singh Marg,
New Delhi-110 016.
- 3 The Principal,
Kendriya Vidyalaya, Adoor PO
Pathanamthitta District.
- 4 Smt.Valsa Isac,
Post Graduate Teacher (English)
Kendriya Vidyalaya, BEML Nagar,
Kolar, Karnataka.

.....Respondents

(By Advocate Mr. Shafik M.Abdulkhadir (for R.1 to 3))

This application having been heard on 24.4.2007, the Tribunal on the same day delivered the following:

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ORDER**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

The applicant is aggrieved by the Annexure.A1 order dated 20-4.2007 by which she has been transferred from Kendriya Vidyalaya, Adoor, Kerala to Kendriya Vidyalaya, BEML Nagar, Kolar, Karanataka by way of displacement to accommodate the 4th respondent Smt. Valsa Isac presently posted at BEML Nagar, Kolar, Karnataka in terms of para 15.1 of the latest transfer guidelines (hereinafter called the guidelines) which inter alia, provides to create a vacancy so as to accommodate the persons who are figuring in priority list No.2, as per their priority position.

2 Para 2(xii) of the guidelines defines "Priority Category for Grant of Request Transfer" (PCGR) as persons falling in one or more of the following categories:-

- (i) "M.DG" which means an employee seeking transfer on the basis of one or more of the medical conditions listed in Annexure.1, affecting himself/herself, spouse or dependent son/daughter.
- (ii) "DSP" which means an employee whose spouse has died within two years, as on 31st March of the year.
- (iii) "LTR" which means an employee who has less than three years to retire, as on 31st March of the year.

Para 12.2 of the guidelines deals with the "extend to which requests from persons belonging to PCGR and non-PCGR categories will be accommodated". It says that the requests from persons belonging to PCGR are to be accommodated in the order as follows:

- (i) First claim on available vacancies.
- (ii) To the extent vacancies are not available, by displacement of employees as per para 15.



Para 15 of the guidelines provides as under:-

"15 SECOND PRIORITY LIST: INTER-REGIONAL TRANSFERS OF PERSONS IN PCGR CATEGORY BY DISPLACEMENT OF OTHERS AND CERTAIN CONSEQUENTIAL TRANSFERS:

15.1 Where transfer is sought by a teacher coming under PCGR and no vacancy is available at the station of his choice, required vacancy will be created by displacing a teacher of the same category (post/subject) with longest stay at the said station, and not belonging to CDA. However, nobody shall be displaced in this manner, as far as possible, before completing a tenure of three years. If no non-CDA category employee with more than 3 years' tenure is not available at the station of first choice of a PCGR category employee, the exercise will be done for locating such a person at stations of his second, third and lower choices, in that order. If no non-CDA employee with more than 3 years' tenure is available at any of the stations of choice, the non-CDA employee with longest tenure out of all the preferred stations taken together, will be displaced. The displaced teacher will be accommodated against available nearby vacancy as far as possible within the region. The resultant vacancies arising out of transfer orders as per first priority list, will be used to accommodate non-PCGR category requests, who could not be accommodated in the first priority list, to the extent possible.

15.2 Second priority list prepared as per para 15.1 above, shall be displayed on KVS website by 20th May, and representations against it will be received upto 5th June. Final transfer orders after taking representations into consideration, shall be issued by 10th June.

15.3 Any correction/modification which become necessary in transfers as per first and second priority lists by KVS (HQ) shall be issued by 25th June."

3 According to the applicant, the 4th respondent belongs to the PCGR category since she has less than three years service left to retire and she requested for transfer to Adoor, Kayamkulam, Trivandrum, Pallipuram and Kottayam in that order of preference. The applicant stated that the 4th respondent could have been adjusted against the newly created post at Pangode (Trivandrum) without disturbing the applicant. The official respondents, therefore, should have exhausted the provision contained in

para 12.2 of the guidelines before action under para 15.1 was resorted to.

4 The applicant has also raised a number of other points, which according to her should have weighed in her favour for not disturbing her from her present place of posting.

5 I have heard Ms.Heera for T.C.G.Swamy for applicant and Mr.Shafik M.A for the respondents. The applicant's counsel has submitted that the impugned transfer order has not so far been served on the applicant and she got the copy of the same from the Internet. The respondents' counsel Mr.Shafik M.A has submitted that the applicant should have availed of the opportunity to make representation against the proposed transfer as provided in para 15.2 of the guidelines before she had approached this Tribunal. According to the said provision, the second priority list prepared as per para 15.1 is to be displayed on KVS Website by 20th May, and representations against it are received upto 5th June and the final transfer orders, after taking the representations into consideration will be issued only by 10th June, 2007. The apprehension of the applicant is that the respondents may implement the Anenxure.A.1 transfer order even before the deadline of 10th June, 2007 and without considering her representation. In view of the clear provision in the guidelines that the applicant is entitled to make a representation against the transfer and the same will be considered by the authorities concerned, and the final transfer order will be issued only by 10th June, 2007, I do not think that there is any scope for the apprehension of the applicant.

6 In view of the above, the applicant may make a detailed representation to the first respondent well before the prescribed time limit of 5th June, 2007. All the grounds which have been taken in this OA and any other fresh grounds she would like to take may be taken by the

applicant in the representation. The first respondent shall consider the representation so made by the applicant and pass a final order well before 10th June, 2007 and convey the same to her. In any case, till the representation so received by the first respondent is considered and disposed of, the respondents shall not give effect to the Annexure A1 order, to the extent it applies to the applicant. With the above directions, this Original Application is disposed of. No costs.

Dated this the 24th day of April, 2007


GEORGE PARACKEN
JUDICIAL MEMBER

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