

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 28 of 2008

Wednesday, this the 27th day of February, 2008

C O R A M :

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

S. Sreeletha,
W/o. M. Sasidharan,
Post Graduate Teacher (Biology),
Kendriya Vidyalaya, Pallipuram,
Trivandrum District,
Residing at : Plot No. 69,
Tilak Nagar Colony, Mananchira Post,
Trivandrum : 695 015.

... Applicant.

(By Advocate Mr. TC Govindaswamy)

v e r s u s

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 Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, I.I.T. Campus,
CHENNAI ; 600 006
4. The Principal,
Kendriya Vidyalaya, Pallipuram,
Trivandrum District
5. Smt. K. Maria Parvathy,
Post Graduate Teacher (Biology),
Kendriya Vidyalaya, Pallipuram,
Trivandrum District. ... Respondents.

(By Advocate Mr. Shafik MA for R1-4 and M/s. S. Anil Kumar and
Mr. T.R. Mohanakumar for R-5)

This Original Application having been heard on 27.02.08, the Tribunal on the same day delivered the following:

O R D E R
HON'BLE MRS. SATOHI NAIR, VICE CHAIRMAN

The applicant has been working as a Post Graduate Teacher (Biology) under the 4th respondent at Pallipuram since November, 2006. By Annexure A/3 order dated 2.7.2007, the respondents sanctioned a new Section for Class X1 (Sc.) in Kendriya Vidyalaya (KV, for short), CRPF, Pallipuram. Consequently, one post of PGT (Bio.) was directed to be added and by Annexure A/4 dated 31.08.2007 invoking Para 17.1 of the transfer guidelines, the 5th respondent Smt. K. Maria Parvathi, was transferred from KV No.1 Hubli to KV, Pallipuram and she joined at KV, Pallipuram on 5.10.07. While so, vide Annexure A/6 dated 8.10.2007, various posts/cadres in teaching and non-teaching staff and the opening of new classes and sections in KV, Pallipuram was assessed and sanction was accorded by the Commissioner, KVS, according to which one post of PGT (Bio.) was reduced for the academic year 2008-09. Vide Annexure A/7 dated 21.11.2007, the Principal, KV, CRPF, Pallipuram took up the matter with the Assistant Commissioner, but no modification was considered for the academic year 2008-09 and the same was informed by the Central Office, KVS, New Delhi to the Regional Office at Chennai vide Annexure A/8 communication dated 19.12.07 specifically stating that the second post of PGT (Bio.) at KV, Pallipuram was not required as per actual work load. Thereafter, Annexure A/1 dated 7.1.2008 was issued by the Regional Office of KVS, Chennai, to the Principal of the concerned KV declaring the staff of the concerned

Vidyalayas who were senior most as having been identified as surplus and the applicant has figured at Sl. No. 6 in that order. The applicant has filed this O.A. challenging the above mentioned order on the ground that the applicant is subjected to substantial prejudice by identifying her post as surplus. In the existing sanctioned post at Pallipuram, the applicant is working from November, 2006 onwards and thereafter additional post which was created and filled up and then abolished, hence the incumbent of the second post should have been identified as surplus and not the applicant on the ground of senior most / longest stay in the said Vidyalaya. It was further submitted that the applicant shall be retiring on 30.11.2011 and within a few months, therefore, she would come under LTR category (which comes under the protected category for transfer).

2. Reply statement has been filed by the official respondents as well as private respondents. It was submitted by the official respondents that the applicant being the senior most / longest stay in KV, Pallipuram, she had to be declared as surplus and therefore, the action taken by them cannot be faulted. The 5th respondent was granted transfer to KV, Pallipuram against the newly created vacancy in the light of 17(d) of the transfer guidelines. It was also submitted that the applicant has not challenged the decision to reduce one PGT (Bio.) post in KV, Pallipuram, which has been done as there was no actual work load as per norms. Therefore, withdrawal of one PGT (Bio.) post is justified. They have also denied the allegation that the applicant has been rendered surplus only to accommodate the 5th respondent. The applicant may have to be transferred in Chennai Region if there is any vacancy available in the said Region. Counsel for the private respondent No. 5 has also denied

the contention of the applicant that in order to accommodate the 5th respondent, the applicant has been rendered surplus. In fact, she had rendered more than 8 years of service outside Kerala and had been requesting for a transfer and when the 2nd additional post was created she had been transferred on her own request.

3. The applicant has filed rejoinder reiterating the contentions made in the OA mainly alleging that the sanction of additional post of PGT (Bio.) in the academic year 2007-08 was not necessary and the power has been exercised arbitrarily.

4. Heard the learned counsel for the parties. In the totality of the circumstances brought out by the respondents and considering the rule position relating to transfers and the declaration of surplus in KV Sangathan, I am of the view that the respondents have acted within the ambit of the Rules and any such contention that the power was exercised to favour any person has no force. However, it cannot be denied that the consequent dislocation of the applicant snacks of some amount of injustice as the whole situation has been created on account of creation and cancellation of the additional post within a short spell of time. At the same time, it has to be appreciated that the respondents could not give a go by to the norms prescribed for identification of surplus posts. It is, however, seen that the reduction in the post of PGT (Bio.) as decided by the Commissioner is coming into force from the academic year 2008-09 and for this reason, Annexure A/1 was issued in advance notifying the identification of the surplus staff so that they could indicate their choice stations. It is seen that Annexure

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A/11 representation has accordingly been submitted by the applicant to the Commissioner, the first respondent, which according to the aforementioned norms / guidelines has to be sent by the Assistant Commissioner to the Commissioner, KVS, New Delhi, who would then take a decision regarding the transfer of staff to various regions. Since this exercise has already been contemplated in the guidelines, the same has to be done before the current academic session ends. I am of the view that the ends of justice would be met if the first respondent is directed to consider Annexure A/11 representation of the applicant and take a decision before the current academic year ends. Accordingly I do so and direct the first respondent, the Commissioner, KVS, New Delhi, to take a decision on Annexure A/11 representation of the applicant. The decision may be taken before the current academic year ends. Till such time, she may be permitted to continue at KV, CRPF, Pallipuram.

5. The O.A. is disposed of with the above direction. No costs.

(Dated, the 27th February, 2008)

Sathi. Nair
(SATHI NAIR)
VICE CHAIRMAN

cvr.