

केन्द्रीय प्रशासनिक अधिकरण न्यायपीठ में
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

आदेश पत्र
ORDER SHEET

आवेदन सं० 19 का 312/2001
ORIGINAL APPLICATION No. of 199

आवेदक
Applicant (s)

Rubina Manakkot
Ramachandran

प्रत्यर्थी
Respondent(s)

Commr., K.V. Pongathom,
New Delhi and 2 others

आवेदक (आवेदकों)

की ओर से अधिवक्ता

Advocate for
Applicant(s)

Mr. P.V. Mohanan

प्रत्यर्थी (प्रत्यर्थियों)

की ओर से अधिवक्ता

Advocate for
Respondent(s)

रजिस्ट्री के टिप्पण
Notes of the Registry

अधिकरण के आदेश
Orders of the Tribunal

प्रस्तुतीकरण की तारीख : 2.4.01
Date of Presentation :

पंजीकरण की तारीख : 3-4-01
Date of Registration :

विषय : App't.
Subject :

तेनाती की तारीख : 4-4-01
Date of posting :

amp
3/4/01

4-4-2001

C-I

(6) Mr. PV Mohanan
Mr. TB Radhakrishnan (R1&2)
Mr. KR Rajkumar, ACGSC (R3)

Heard. Orders pronounced in the open
Court.

9/3

TNTN(AM)

AVH(VC)

4-4-2001

ak.

Final Orders issued.

8-
16/4/01

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 312 of 2001

Wednesday, this the 4th day of April, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Rubina Manakkat Ramachandran,
W/o. K. Ajayakumar,
Manakkat House, (PO) West Hill,
Calicut - 673 005Applicant

[By Advocate Mr. P.V. Mohanan]

Versus

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi.
2. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office Jammu,
Gandhi Nagar, Jammu Tawi - 180 004
3. Union of India, rep. by the Secretary,
Ministry of Human Resources,
Swasthi Bhavan, New Delhi.Respondents

[By Advocate Mr. Thottathil B. Radhakrishnan (R1&2)]
[By Advocate Mr. K.R. Rajkumar, ACGSC (R3)]

The application having been heard on 4-4-2001, 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 28 year old young lady who is the mother of a three years old child, being successive in the selection process was included in the select list for appointment to the post of Trained Graduate Teacher (PCM Physics, Chemistry & Mathematics) in the OBC quota. Even before an offer of appointment was received, the applicant made a representation to the 1st respondent explaining her family background and requesting for a posting in Mangalore, where her

husband is working as a Sub Inspector of Karnataka State Government. However, she was given an offer of appointment on 18-1-2001 posting her as Trained Graduate Teacher (PCM) in Kendriya Vidyalaya Sangathan, Kishtwar, Doda District of Jammu & Kashmir. She was asked to submit a certificate etc. But, she requested for a posting to any State other than Jammu & Kashmir stating that being young lady with an infant child it will be difficult for her to join there. By an order dated 12-2-2001 instead of Kendriya Vidyalaya, Kishtwar, she was asked to report at Kendriya Vidyalaya, Baramulla by 27-2-2001 by the 2nd respondent. The applicant again made a representation on 20-2-2001 (Annexure A8) to the 1st respondent requesting for a sympathetic consideration and for a posting in a Kendriya Vidyalaya anywhere in South India. She followed it up by another representation dated 7-3-2001 (Annexure A-10) wherein she has requested for a posting in any State other than Jammu & Kashmir, where it is safe. The applicant has not received any reply to her representations. In the meanwhile, the 2nd respondent on 14-3-2001 directed the applicant by Annexure A-11 order to join at Kishtwar latest by 30-3-2001 threatening that failure to join duty would entail forfeiture of her appointment. The applicant aggrieved by this has filed this application praying for a direction to respondents 1 and 2 to post the applicant as Trained Graduate Teacher in Kendriya Vidyalaya Sangathan School in southern region preferably in the State of Karnataka and not to cancel the order of appointment as Trained Graduate Teacher.


2. When the application came up for hearing on admission, Sri Thottathil B. Radhakrishnan entered appearance on behalf of respondents 1 and 2 and Sri K.R. Rajkumar entered appearance on behalf of the 3rd respondent. The learned counsel for respondents 1 and 2 raised a preliminary objection



that the application is not maintainable before this Bench of the Tribunal as the cause of action does not fall within the territorial jurisdiction of this Bench of the Tribunal. It is stated that the applicant's posting was in Doda District of Jammu & Kashmir and the place of her choice was Karnataka and therefore the application cannot be entertained as no part of the cause of action has arisen in Kerala.

3. We do not find any substance in the argument that this Bench of the Tribunal does not have the territorial jurisdiction to entertain the application. The applicant is not a Government servant, but a person recruited for an appointment. The applicant had applied and has made representations for a posting in a southern State or in any other State from her residence at Calicut. The communication from the 2nd respondent directing her to join at Baramulla or Kishtwar was received by her at her residential address at Calicut. Therefore, part of the cause of action has arisen within the territorial limits of the State of Kerala and therefore, this Bench of the Tribunal has got jurisdiction to entertain the application.

4. It is well settled that an employee does not have the right to choose the place where he or she should be posted or appointed. However, an employee can make a request regarding the posting and the competent authority would decide the place of posting taking into consideration all the relevant factors including family backgrounds. When taking a decision, we expect the competent authority to apply its mind to all the relevant factors and how public interest would best be served by appointing a person. It need not be said that a person who placed in an inconvenient situation would not be able to contribute his best in service. In the instant case, a young

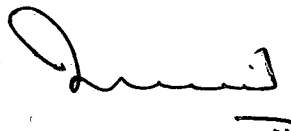


lady with an infant child, if kept thousands of kilometers away from her husband and rest of her family, can never be expected to have a balanced state of mind and equanimity to perform her duties to the best of her ability. This aspect of the case has to be considered among other relevant factors by the competent authority who would decide whether the applicant could be accommodated in any other State other than the disturbed area like Jammu & Kashmir. It appears that the 1st respondent has not issued any order considering the request of the applicant. Therefore, we are of the considered view that the application has to be disposed of with a direction to the 1st respondent to consider the representations A8 and A-10 submitted by the applicant with due sympathy.


5. Accordingly, we direct the 1st respondent to consider A8 and A-10 representations submitted by the applicant with due sympathy and to give her an appropriate reply within three months from the date of receipt of a copy of this order. Till a decision is taken by the 1st respondent, we direct that the order of appointment as Trained Graduate Teacher issued to the applicant shall not be cancelled.

6. The Original Application is disposed of as above. No costs.

Wednesday, this the 4th day of April, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

ak.

List of Annexure referred to in this Order:

1. A8 True copy of the representation dated 20-2-2001 submitted by the petitioner to 1st respondent.
2. A10 True copy of the representation dated 7-3-2001 submitted by the petitioner to 1st respondent.
3. A11 True copy of Memorandum No. 14-1/2001 KVS/(JR)/3154 dated 14-3-2001 issued by the 2nd respondent.