

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.371/2001

Thursday this the 28th day of February, 2002

CORAM

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

T.Jacob Raj,
Trained Graduate Teacher (Biology)
Kendriya Vidyalaya, Pangode, Trivandrum,
residing at 2/4F, Plot No.53,
IV Lay Out, Carmen Mount Road,
Ponnappa Nadar Nagar,
Nagercoil, Kanyakumari Dist.
Tamilnadu.

..Applicant

(By Advocate Mrs.Sumati Dandapani)

V.

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional area, Shaheed Jeet Singh
Marg, New Delhi.16.
2. The Deputy Commissioner (Finance)
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.16.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, III Campus,
Chennai.36.
4. The Education Officer,
Kendriya Vidyalaya Sangathan,
Establishment III Section,
18, Institutional Area, Shaheed
Jeet Singh Marg, New Delhi.
5. The Principal, Kendriya Vidyalaya,
Pangode, Trivandrum.9.
6. The Principal,
Kendriya Vidyalaya No.I
Mangalore.1.

..Respondents

(By Advocate Mr. Thottathil B.Radhakrishnan)

The application having been heard on 28.2.2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Trained Graduate Teacher (Biology), Kendriya Vidyalaya, Pangode, Trivandrum has filed this application challenging the order dated 21.12.2000 (Annexure.A1) to the extent of his transfer from Kendriya Vidyalaya, Pangaode, Trivandrum to Kendriya Vidyalaya No.I, Mangalore as also the order dated 10.4.2001 (Annexure.A5) by which his representation for cancellation of the transfer was rejected.

2. When Annexure.A1 order was issued the applicant had filed OA 26/2001 challenging the order on various grounds. The application was disposed of by order dated 12.1.2001 with a direction to the 1st respondent to consider the representation submitted by the applicant keeping the relief of the applicant pending till his representation is so considered and disposed of.

3. In obedience to the above direction the first respondent has now issued the impugned order Annexure.A5 rejecting the claim of the applicant for retention. The impugned orders are assailed on various grounds. The main ground on attack is that while the guidelines said that no order of transfer would normally be issued beyond 31st August the impugned order has been issued on 21.12.2000 while there was no urgent administrative exigency which requires such a transfer.

4. The respondents have filed a detailed reply statement. An identical issue as involved in this case was considered by this Bench of the Tribunal in OA 107/2001. Noting paragraph 6 of the transfer guidelines (A2) which was Annexure.A9 in that case, which reads as follows:

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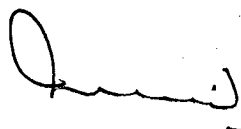
"As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31st August.

- (i) Organisational reasons, administrative grounds and cases covered by para 5.
- (ii) Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.
- (iii) Mutual transfers as provided in para 12.

it was held that as the transfer was only under Clause 10(1) of the guidelines and not for any other extreme administrative exigency, the transfer beyond 31st August was not justified. Since the situation in this case is identical we follow the decision in OA 107/2001 and set aside the impugned order Annexure.A1 to the extent of transfer of the applicant from Kendriya Vidyalaya, Pangode and the impugned order Annexure.A5 to the extent of rejecting his claim for retention.

5. The application is allowed. Parties will suffer their costs.

Dated the 28th day of February, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

(s)

A P P E N D I X

Applicant's Annexures:

- 1. A-1: Copy of order No.F-7-1(5-D)/2000-KVS(ESTT.III) dated 21.12.2000 issued by the 4th respondent, transferring applicant from Pangode to No.1, Mangalore.
- 2. A-2: Copy of the guidelines for transfers issued by respondent.
- 3. A-3: Copy of the representation dated 5.1.01 submitted by the applicant to the respondent No.1.
- 4. A-4: Copy of the order dated 12.1.01 in OA 26/01 passed by this Hon'ble Tribunal.
- 5. A-5: Copy of the order No.F.19-81/3/2001-KVS(L&C) dated 10-4-01 issued by the 1st respondent disposing of the representation of the applicant.
- 6. A-6: Copy of order in an identical matter OA No.348/01 filed by C.N.Nanukuttan Nair, passed by this Hon'ble Tribunal.
