

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 376 OF 2008

Dated the Thursday, the 15<sup>th</sup> January, 2009

CORAM:-

**HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN**

Z. Elizabeth,  
W/o M. Johny,  
Trained Graduate Teacher (Maths)  
Kendriya Vidyalaya,  
Puranattukara, Trichur,  
Permanent address at No.28/3065,  
Tagore Nagar, Elamkulam, Kochi-20.

..... Applicant

[By Advocate: % TC Govindaswamy]

-Versus-

1. The Commissioner, Kendriya Vidyalaya Sangathan,  
18- Institutional Area, Shahid Jeet Singh Marg,  
New Delhi- 110 016.
2. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, IIT Campus,  
Chennai-600 006.

...Respondents

[By Advocates: % Thomas Mathew Nellimoottil]

This application having been heard on 15<sup>th</sup> January, 2009 the  
Tribunal delivered the following -

**ORDER**

The applicant has been initially working as Primary School  
Teacher in the Kendriya Vidyalaya at Ernakulam. On 31.3.2003 on

administrative exigencies she had been transferred to Goa Region. She had been awarded promotion while working there and later on on request she had been transferred and accommodated at Trichur from November 2006 onwards.

[2] An application for transfer submitted by the applicant has been pending but in the meanwhile a contingency had arisen whereby her spouse at Ernakulam, working in BSNL, had to be hospitalised as he suffered heart attack. After coronary angioplasty and other supportive measures, now he has been assessed to be 50% disabled. He is also suffering from impaired hearing. The claim is that in view of the transfer norms she is entitled to be considered in the Category of 'MDG' and refusal of the Department to consider her claim cannot be justified.

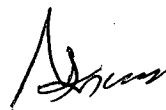
[3] In reply statement, contentions have been taken by the respondents that the claim as constituted is not maintainable. It is particularly indicated that the request to come to Ernakulam from other places are being considered on priority, going by norms and a departure is not normally possible. It is not a case where the grounds as agitated in the application have been incorporated in the Guidelines for transfer. The later developments could at all be considered subject to such restrictions.

[4] Technically, the respondents might be justified in their stand, and a question may arise whether subsequent developments could be taken note of with reference to an existing application for transfer, particularly if it affects third persons.

[5] Mr TC Govindaswamy, learned counsel for the applicant submits that the physical condition of her spouse has not been

duly taken notice of. Going by the norms the objection that the applicant did not raise such contention, cannot be taken as a ground for not giving benefit of transfer to the applicant. But appreciating the merit of objections, Mr Govindaswamy submits that at least there should be a direction to consider the request for transfer whenever vacancy arises at Ernakulam in future. Though the applicant is not a physically challenged person by herself, the broad guidelines may indicate that disability of spouse also, at least in appropriate cases, requires to be taken notice of in the matters of transfer and postings. It is also however, true that consideration as requested for should not result in prejudice in respect of persons, who are waiting for transfer and therefore the claim should not result in precedence, unless in extreme compassionate circumstances.

[5] In view of the above, the relief cannot be granted at this stage as prayed for. However, it is directed that the respondents are to take notice of the submissions made in the application, coupled with the present compassionate ground as highlighted, for appropriate decision to be taken when vacancies are to be filled up which arises hereafter including those that may be identified in for the ensuing academic years. No other directions are called for. The OA is closed.



(Justice M Ramachandran)  
Vice Chairman