

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.411/2005

Friday this the 8th day of July, 2005

CORAM

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

Bindu K.M.

Postgraduate Teacher (Biology)

Kendriya Vidyalaya No.2.

Kozhikode, residing at Aswathy,

20/1087, Panniyankara PO

Kallai, Kozhikode.3.

....Applicant

(By Advocate Mr.K.P.Dandapani)

V,

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.16.

2. The Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Chennai Region, IIT Campus,
Chennai.36.

3. The Principal,
Kendriya Vidyalaya No.2.
Kozhikode.

4. The Principal,
Kendriya Vidyalaya No.II
Jalahalli No.II (AFS)
Bangalore.1.

5. Shri Joy Tom,
Post Graduate Teacher (Biology)
Jalahalli No.II (AFS)
Bangalore.1.

(By Advocates M/s Iyer and Iyer (for R.1to4)

Advocate Mr.P.J.Mathew (for R5)

The application having been heard on 8.7.2005, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant who is working as Post Graduate Teacher (Biology) Kendriya Vidyalaya No.II, Kozhikode is aggrieved by her transfer to Jalahalli No.II, Bangalore as per order dated 30.5.2005. She has submitted a representation to the 1st respondent on 1.5.2005 and another representation (A3) on 2.6.05 pointing out that a vacancy has arisen during the end of June, 2005 and another vacancy may arise in July in K.V. Palakkad and K.V. Kalpetta.

2. When the matter came up for hearing the official respondents who have filed counsel statement stated that the teacher who has been transferred against the applicant has been working outside Kerala for 22 years out of his total service of 31 years of which he has worked for 13 years in hard stations. It was also submitted that the applicant has been identified as having the shortest stay and the order of transfer has been made against clause 10(2) of the Guidelines. The learned counsel for the applicant submitted that she was transferred from Jammu Region to K.V. Jalahalli only in July, 2004 and the transfer on request was modified as KV No.II Kozhikode in November, 2004 and she has just completed seven months in Kozhikode and has considerable family problems to face if the transfer is within a such short period.

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3. The 5th respondent the transferee submitted that he had been working in hard stations for about 15 years and had made a request to be posted to K.V. Kozhikode which is his native place but could not get the request transfer and was posted to Jalahalli. After issue of the new guidelines during January, 2005 wherein clause 10(2) was modified to include consideration of requests from persons who are about to retire within three years he had made a request and accordingly he has been transferred to Kozhikode. His date of retirement is 30.6.2006.

4. We have gone through the guidelines and considered the pleadings of the counsel on either side. Considering that the 5th respondent has a long record of service in hard stations and less than three ^{years} for retirement, the action of the respondents in considering him under clause 10(2) of the guidelines cannot be faulted. However, as submitted by the counsel for the applicant who has been disturbed even before completion of one year, we consider that in fairness her request made in her representation dated 2.6.05 for accommodation against a clear vacancy which has arisen during June, 2005 at Palakkad or any vacancy likely to arise in Kalpetta deserves consideration. Therefore, on consideration of respective merits we vacate our interim order dated 7.6.2005 to permit the 5th respondent to join the post. Thereafter the first respondent is directed to consider the representation of the applicant in Annexure.A3 dated 2.6.05 against a clear superannuation vacancy arisen in June, 2005 in K.V. Palakkad or any other vacancy which

may have arisen in KV Palakkad or KV, Kalpetta, within a period of two weeks from the date of receipt of a copy of this order. Till then, the applicant shall not be compelled to join at the station to which she has been transferred.

5 The application is disposed of with the above directions. No costs.

Dated this the 8th day of July, 2005



K.V.SACHIDANANDAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

S.