

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 296/2009

This the 27th day of July , 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A.K. Mishra, Member(A)

Smt. Kusum Dubey, Aged about 50 years, W/o Sri Bhaskar Pratap Dubey, R/o 2/86 Vikalp Khand, Gomti Nagar, Lucknow.

.....Applicant

By Advocate: Sri B.P. Dubey

Versus

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi .
3. Joint Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. Education officer, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
5. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Lucknow Region, Sector 'J' Aliganj, Lucknow.
6. Principal, Kendriya Vidyalaya, Gomti Nagar, Lucknow.

.....Respondents

By Advocate: Sri Surendran P.

ORDER

By Dr. A.K. Mishra, Member-A


Aggrieved by the transfer order dated 14.5.2009 issued by the competent authority of Kendriya Vidyalaya Sangathan (KVS), this application has been filed with a prayer to set-aside the impugned transfer order (Annexure A-1), and for a direction to respondent no.2 to consider the representation dated 18.7.2009 of the applicant and decide it as per the transfer guidelines, and to direct the respondents to pay her salary regularly without any interruption. The applicant has also



prayed for a direction, by way of interim relief to stay the operation of impugned transfer order.

2. The applicant is presently working as Trained Graduate Teacher (TGT) under KVS and was posted at Kendriya Vidyalaya (KV), Gomti Nagar, Lucknow since November 2000. Earlier, she was working at KV Upper Shillong (Meghalaya), which is treated as hard station under the policy guidelines of KVS. She got her transfer to Lucknow on her representation based on personal medical grounds and the presence of her spouse at Lucknow, where he is a practicing advocate. She is a patient of ischemic heart disease and twice suffered paralytic strokes during 1996 and 1999. Subsequently she developed Ductal Carcinoma of breast and was operated upon at Tata Memorial Hospital, Mumbai on 23.9.2000. Her husband is also suffering from angina pain, high blood pressure, diabetes and neurosis.

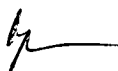
3. Although she was transferred to Lucknow on her own representation on 9.11.2000, she was again transferred on 31.5.2005 to KV at Jawahar Nagar in the State of Bihar. This order was stayed by a direction from the C.A.T. in O.A. no. 365 of 2005, which was finally disposed of on 9.9.2005 with an observation that the respondents should re-examine the transfer policy and reconsider each case of transfer in the light of the modified transfer policy. This matter was taken to Allahabad High Court at Lucknow Bench by the Sangathan and the High Court observed that a new policy for transfer had been framed by the Sangathan in the light of the directions of C.A.T. and that the respondent-authority should re-consider and pass a fresh transfer/posting order of the teachers in pursuance of



the new policy as aforesaid. The Hon'ble High Court further observed that the posting of such teachers as may be genuinely deserving of compassion may be granted appropriate concession under the new policy. An assurance was given by the learned counsel for private respondents that they would join at the places of their transfer as may be determined by the authorities in pursuance of these directions

3. The applicant has now been transferred in the impugned order to Bijapur in Karnataka State, which is located at the distance of 2000 Kms from Lucknow. The applicant has made a compressive representation to the Commissioner, KVS, who is the competent authority, for re-consideration of the impugned order in the light of her submissions made in her petition. However, as no favourable orders were forthcoming on her representation, she has filed the present O.A. on 21.7.2009.

4. At the time of hearing, learned counsel for the applicant strenuously argued in favour of grant of stay order in view of her medical condition and medical problems of her husband. The learned counsel for the respondents submits that the applicant has already been relieved from her post, TGT {Hindi} at KV, Gomti Nagar, Lucknow and produced a copy of the relief order bearing no. 6987 dated 19.5.2009, which is addressed to her. In view of her relief from Gomti Nagar school, it was contended that no useful purpose would be served by issuing a direction to maintain status quo as on date. The counsel for the applicant, of-course, denied the applicant ever having received a copy of this order. He, however, admits that the applicant is no longer performing her duties at Gomti Nagar school as her



name does not find place in the register any-more. He produced some statements drawn from internet, which suggest that the applicant is still continuing on the roll of Gomti Nagar, K.V. However, there is no reason to disbelieve the fact of relief in view of the specific order dated 19.5.2009, which was produced before us.

5. When a suggestion was made whether the purpose of the applicant would be served if a direction were to be issued to the competent authority to expedite consideration of representation filed earlier by the applicant on 18.7.2009, the counsel for the applicant submitted that since the O.A. had been filed for the purpose of modification of transfer policy, this purpose might not be entirely achieved if the representation of the applicant only was considered by the respondent-authorities.


6. However, we find from the observations of Hon'ble High Court that a new policy has already been formulated in the light of the directions issued to Sangathan earlier and the authorities were asked to reconsider each case of transfer in the light of such policy. The learned counsel for the applicant agreed that if the entire O.A. is treated as additional representation, the purpose of the applicant would be served adequately.

7. In consideration of facts and circumstances of the case, we dispose of this application at the admission stage itself with a direction to the respondent no.2 to expedite the consideration of the representation dated 18.7.2009 of the applicant within a period of two months from the date of supply of a copy of this order and furnish a copy of representation. A copy of the O.A. filed before us should also be treated as additional



representation, if it is placed before the respondent no.2 for consideration. By way of Interim relief, we direct that no coercive action should be taken against the applicant till finalization of her representation as directed above.

8. The application is disposed of with the aforesaid directions. No costs.


{Dr. A.K. Mishra} 27/07/09
Member-A


{Ms. Sadhna Srivastava}
Member -J

Girish/-