CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
O.A. Nos. 472, 473, 474 and 476 of 2005
Lucknow this the 27th day of Sept., 05.

HON. SHRI M.L. SAHNI, MEMBER(J)
HON. SHRI S.C. CHAUBE, MEMBER(A)

O.A. 472/05

Smt. Rashmi Mishra, aged about 45 years, wife of Sri Pradeep Mishra, resident of B 1250, Indira Nagar, Lucknow.

Applicant.

By Advocate Shri R.C. Saxena.

Vs.

Versus.

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Chairman.
2. Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.
4. Principal, Kendriya Vidyalaya Gomti Nagar, Lucknow.

... Respondents.

By Advocate: Shri. S.P. Singh for Shri M.G. Misra.

O.A. 473/05

Smt.Archana Dwivedi, aged about 40 years, w/o Sri Anil Kumar Dwivedi, R/o Awadh Apartment, Vipul Khand, Gomti Nagar, Lucknow.

Applicant.

By Advocate Shri R.C. Saxena.

Vs.

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Chairman.
2. Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.
4. Principal, Kendriya Vidyalaya Gomti Nagar, Lucknow.

... Respondents.

By Advocate: Shri. S.P. Singh for Shri M.G. Misra.

O.A. 474/05

Sudha Rastogi, aged about 40 years, w/o Shri Rajesh Rastogi R/o 59, Subhash Marg, Lucknow.

Applicant

By Advocate Shri Ramakant Jayswal.

Vs.

1. Union of India through Secretary to the Department of Human Resource Development, New Delhi.
2. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Commissioner Kendriya Vidyalaya Sangathan
3. Commissioner, Kendriya Vidyalaya Sangathan 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.
4. Education Officer, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Chairman.

5. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.
6. Principal, Kendriya Vidyalaya Gomti Nagar, Lucknow.

... Respondents.

By Advocate: Shri. S.P. Singh for Shri M.G. Misra.

O.A. 476/05

Smt. Malti Twari aged about 51 years, wife of Sri M.K. Tewari, working as PRT, Kendriya Vidyalaya No.1 Chakeri, Kanpur, resident of Sardari Khera Police Station Krishna Nagar, Lucknow.

Applicant.

By Advocate Shri Arshad Rizvi

Vs

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Chairman.
2. Joint Commissioner (Administration), 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.
3. Education Officer, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16, through its Chairman.
4. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.
5. Principal, Kendriya Vidyalaya No. 1 Chakeri, Kanpur

... Respondents.

By Advocate: Shri. S.P. Singh for Shri M.G. Misra.

ORDER

BY HON'BLE SHRI M.L. SAHNI, MEMBER (J)

1. Since all the above O.As pertain to transfer of original applicants, who are working in the Kendriya Vidyalyas and have challenged the guidelines issued for the transfer under the Scheme dated 19.2.2005, therefore, we propose to dispose these OAs with one order.

2. We have heard the learned counsel for the parties at length. We have also considered the decision of this Tribunal laid in similar matters (in O.A. 282/05 and other connected matters decided on 8.9.05), whereby O.As were disposed of by passing the following order:

> "53. In the above view of the matter, we are of the considered view that the policy of transfer as promulgated by the KVS requires reconsideration, as certain provisions are violative of Articles 14 and 16 of the Constitution of India and some of them are unworkable, causing prejudice to the teachers. We, accordingly, partly allow these OAs with the following directions:
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> i) Respondents are directed to re-examine the policy to reconsider it in the light of the observations made above.

ii) The orders of transfer passed in each case shall not be given effect to till the matter is reconsidered by a decision of the KVS in writing with reasons.

iii) Any transfer order already effected and relieving ordered, in those cases applicants would be restored back to their status quo ante till that period they would be disbursed for work rendered salary and pay and allowances.

iv) On reconsideration by a reasoned and speaking order, which shall be passed within a period of two months from the date of receipt of a copy of this order, respondents shall either modify the transfer orders or pass fresh orders of transfer. No costs."

3. On behalf of respective applicants their counsel have submitted that since the facts are similar and the grounds of challenge to the transfer orders impugned in each case are similar to those as stated in the decided cases, therefore, similar directions may be given in their O.As. by disposing these O.As at the admission stage.

4. On behalf of respondents, prayer has been opposed on the ground that the orders passed in the decided O.As cannot be the basis in the present cases as the individual applicants of the present OAs were not parties to those O.As and therefore, cannot avail of the benefit of those OAs.

5. In O.A. 472/05 the applicant has impugned orders dated 1.6.05 and 29.7.05 and letter dated 12.8.05(Annexures 1 and 2 respectively). In O.A. 473/05, the applicant has impugned the orders dated 30.5.05 and 29.7.05 and letter dated 12.8.05(Annexures 1 and 2 respectively). In O.A. 474/05 the applicant has impugned the orders dated 1.6.05 and 22.8.05 (Annexures 1 and 3 respectively) and in O.A. 476/05 the applicant has impugned the orders doted 30.5.05, 8.6.05 and 23.8.05 (Annexures 1,2 and 3 respectively).

6. In all the O.As the applicants have impugned their respective transfer orders whereby they have been transferred in public interest under para. 18(b) of the transfer guidelines of K.V.S They have challenged these orders on variety of grounds, interalia, that para 18(b) of the

transfer guidelines is arbitrary and violative of Article 14 of the Constitution because no unfettered powers can be conferred upon the Commissioner K.V.S. to make a departure from the guidelines contained in the Scheme.

7. The main contention of the learned counsel for the respondents that the order passed in O.A. 282/05 and other connected maters cannot be of any use to the applicants who are not parties in those O.As, is not tenable especially in view of law as laid down by the Constitution Bench in K.C. Sharma vs. Union of India (1998(1) SLJ, 54, because the present applicants and those whose cases have been decided have similar cause of action and , therefore, cannot be treated differently while extending the benefit of order passed on identical facts earlier by this Tribunal. The view expressed once on similar facts shall have to be applied mutatis mutandis to all cases of similar facts as held in the cited judgment.

8. Considering the similarity of facts, and the question of law involved, we feel satisfied that if order in the present O.As in terms of the earlier order dated 8.9.05 is passed, no prejudice is likely to ~~be~~ caused to either of the parties. Hence we dispose of the O.As by passing a similar order as passed in O.A. 282/05 (supra) as follows:

9. The impugned orders are set aside with directions to the respondents to re-examine the policy as required of them vide order dated 8.9.05 passed in O.A. 282/05 (supra). It is further provided that in ~~any~~ cases where the order of transfer has been implemented, status quo ante shall be maintained by restoring the applicants to their original places of posting and they would be paid salary and allowances for their working on the restored posts. It is also directed that the respondents shall pass a reasoned and speaking order in each individual case

within two months of this order in accordance with law. All the O.As stand dispose off with no order as to costs.

(S.C. CHAUBE)
Member (A)
s.a.

(M.L.SAHNI)
Member (J)