

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW.

ORIGINAL APPLICATION NO: 86/2006

Lucknow this, the 7th day of July, 2006.

HON'BLE SHRI. P.K CHATTERJI MEMBER(A)

Jagdish Swarup aged about 53 years, son of Shri Shambhu Saran, resident of 285/6 EWs Nim Saray, Allahabad at present posted as T.G.T. (Trained Graduate Teacher) Social Studies, Kendriya Vidyalaya Rai Bareli.

Applicant.

By Advocate Shri M.K. Srivastava.

VERSUS

1. The Commissioner Kendriya Vidyalaya Sangathan 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016.
2. The Dy. Commissioner (Admin). Kendriya Vidyalaya Sangathan Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. The Principal Kendriya Vidyalay, Rai Bareli.
4. Assistant Commissioner, Kendriya Vidyalay Sangathan Regional Office, Lucknow.

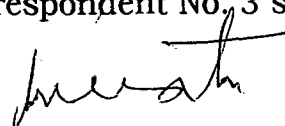
Respondents.

By Advocate Shri Rajendra Singh.

ORDER (ORAL)

The present Original Application 86/2006 has been filed by Shri Jagdish Swarup .

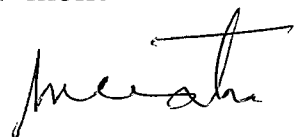
2. The O.A. has been preferred by the applicant against the inaction on the part of the respondents to decide his representation dated 20.11.2004 as given in Annexure 1 to O.A. and subsequent reminders dated 17.12.2005 (contained Annexure 2)
3. The facts of the case are as follows: The applicant is presently posted as Trained Graduate Teacher (Social Study) at Kendriya Vidyalaya Rai Bareli under the respondent No. 3 since



14<sup>th</sup> December 2001. The applicant was earlier transferred on 21.6.2001 and later relieved by the order dated 28.6.2001 from Kendriya Vidyalaya, Bamrauli, Allahabad to Kendriya Vidyalaya Bidar (Karnataka). Being aggrieved by the impugned transfer, the applicant filed O.A. 936/2001 before Tribunal at Allahabad on 3<sup>rd</sup> August 2001. The Tribunal by its order dated 3<sup>rd</sup> August 2001, directed the respondent No. 1 to decide the representation dated 28. 6. 2001 of the applicant by a reasoned order within 6 weeks from the date of receipt of the Tribunal's order.

4. Respondent No. 1 in compliance with the direction considered the representation of the applicant and modified the transfer order by changing the place of posting from Kendriya Vidyalaya Bidar, State of Karnatka to Kendriya Vidyalaya, Raibareli. The applicant obeyed the order and joined services at Raibreli.

5. Thereafter, the applicant has been representing for his transfer since 2003 to Respondent No. 1 and to Respondent No. 3 for his transfer to Allahabad on spouse ground his wife Dr. Nirmala Srivastava is working as Principal Rajkiya Balika Inter College, Phaphamau, Allahabad. It has been stated by the applicant that his wife is physically handicapped to the extent of 75% as per the report of the Chief Medical Officer Fatehpur. The annual transfer application given by the applicant for the years 2003-2004 and 2005-2006 were made by he applicant for transfer on spouse ground to Kendriya Vidyalaya Manouri or Bamrauli, Allahabad where some posts of TGT ((Social Science) were lying vacant. The applicant has cited the case of Smt. Sashi Saxena being transferred twice within a period of 2 months from first



transfer from Kendriya Vidyalaya Shilong to Kendriya Vidyalaya Chakeri No. 2 Kanpur in August 2004 and Kendriya Vidyalaya Chakeri No. 2 Kanpur Kendriya Vidyalaya Bamrauli, Allahabad in October 2004. The applicant has also given other examples of transfer being made within short span of a few months to accommodate certain other individuals.

6. The applicant has further submitted that he is under medical treatment for spondylosis and is under medical treatment at Allahabad and his mother is also old lady aged about 70 years suffering from ailment of rheumatism-Govt.

7. With these grounds, the applicant has sought relief as follows:

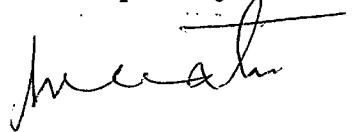
(i) To direct the respondent No. 1 to transfer the applicant on spouse ground along with sympathetic ground in the light of family circumstances as well as against the posts of T.G.T. (Social Studies) available at New Cantt. Branch of Kendriya Vidyalaya Allahabad as per the advertisement dated 1.9.2005, Naini, Jhalwa of Kendriya Vidyalaya Allahabad or any branch of Kendriya Vidyalaya Allahabad.

(ii) To pass such and further order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and

(iii) Award the cost of the original application to the applicant.

8. In their contention against the averments made by the applicant, the respondents have cited the relevant rules are as follows:-

1. Ailments which justify favorable consideration of transfer out of turn.
2. Cases of priority and non priority in



-4-

the matter of transfer. 3. Priorities given for posting within the spouse ground.

9. In their pleadings, the respondents have stated that the illness of the applicant's wife does not come within the guidelines as relaxation has to be made only in respect of certain illness such as Cancer, Paralytic Stroke, Renal Failure, Coronary Artery Disease Thalassaemi, Parkinson's Disease, Motor-Neuron Disease etc. and hence the applicant's wife would not be covered at this orders. Against this, the learned counsel for the applicant has pointed out that any other disease with more than 50% physical and/or mental disability is also covered by this rule.

10. The respondents have also given the calendar of activities for transfers on request and have stated that for the year 2006, the relevant dates are as follows:-

Display of first priority list of inter regional request transfers on website by RO-6<sup>th</sup> September-26<sup>th</sup> June.

Receipt of representations son first priority list by RO-20<sup>th</sup> September-10<sup>th</sup> July

Issue of Intra-regional Transfer Orders pursuant to (22) above- 25<sup>th</sup> September-15<sup>th</sup> July.

11. The respondents have also given the priority on spouse ground as followed:-

<b><u>Category of Employee Spouse</u></b>	<b><u>Priority</u></b>
1. Where spouse is a Sangathan employee	I
2. Where spouse is a Central Government employee	II
3. Where spouse is an employee of an autonomous	III

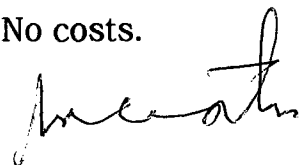
body or PSU under the central government.

4. Where spouse is an employee of a State-Govt.  
or its autonomous body or PSU IV
5. Spouse working in an organization other V  
than 1-4 above.

Incidentally the applicants case would belong to priority  
IV.

12. After hearing learned counsel for the parties. it is ordered  
that in view of the fact that the applicant has been in the same  
station for 4 ½ years and has been making representations in the  
given format for a number of years consecutively and in view of the  
fact that the request has been made on the basis of spouse being  
seriously handicapped and also considering the facts that other  
requests for transfer were considered favorably in the recent past  
which has not been controverted by the respondents before expiry  
of tenure, the respondents will consider the request made for  
transfer of the applicant in the year 2006-2007 sympathetically  
and if any vacancy is available in the appropriate post, he should  
be considered for transfer.

13. With this direction the O.A. is disposed of. No costs.



(P.K. Chatterji)

Member(A)

V.