

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 275/2007**

This the 16th day of April, 2008

**Hon'ble Sri Justice Khem Karan, Vice Chairman**

A.K. Katiyar aged about 57 years son of late Sri Ram Sanehi Katiyar resident of Village Deokali, Post Office- Kanjati, District- Kanpur Dehat (presently posted as Principal, Kendriya Vidyalaya, Balrampur.

Applicant

By Advocate: Sri R.C.Singh

Versus

1. Union of India through the Secretary, Ministry of Human Resource Development, New Delhi.
2. Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi through the Joint Commissioner (Administration) and Ex- Officio Secretary of the Sangathan.
3. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. Deputy Commissioner (Personnel ) Kendriya Vidyalaya Sangathan (Vigilance Section) , New Delhi.

Opposite Parties

By Advocate: Sri Surendran P.

**ORDER (ORAL)**

**By Hon'ble Sri Justice Khem Karan, Vice Chairman,**

Applicant has prayed for directing the respondents to consider his case for transfer to Kanpur or to any other nearby station such as Lucknow during the year 2007-2008, keeping in view the fact that he served for about 26 years in North Eastern Region, the fact that his wife is serving Kendriya Vidyalaya at Kanpur and the fact that he has <sup>is to</sup> retire within a period of less than three years.

2. There is no dispute between the parties that applicant was initially inducted as TGT in Kendriya Vidyalaya Sangathan, was later on appointed as PGT, and lastly appointed as Principal in 2004. Right from 1980 to June 2006, he remained posted in North Eastern Region. Vide order dated 14.6.2006, he was transferred to Kendriya



Vidyalaya, RDSO , Lucknow but by order dated 12.7.2006, the same was modified and shifted to Balrampur. On the date this O.A. was filed, he was at Balrampur. He continued giving representation for his posting at Kanpur especially on the ground that he was left with less than three years of service and Article 71 of the Education Code, provided for accommodating such employee at the station of his choice. It appears, during the pendency of this O.A., he has been transferred to Agra , where he is serving at present.

3. The respondents are contesting the claim.

4. During the course of arguments, Sri Surendran P has stated that the applicant has given one representation praying that he should not be disturbed from Agra. But Shri R.C. Singh states that it is not like that. He has shown to me copy of the representation dated 9.4.2008, whereby applicant has reiterated his request for posting at Kendriya Vidyalaya -II Armapur, Kanpur or Kendriya Vidyalaya -I Armapur, Kanpur and has said if his posting is not possible at those places, then he should not be disturbed ~~him~~<sup>from</sup> from Agra. It appears to me that Sri Surendran P is referring to this representation dated 9.4.2008. According to Sri Surendran P, the applicant has no enforceable right to compel the respondents, to post him at Kanpur, as the respondents have to consider so many things in taking decision in such matters. He argues the Courts should not interfere in such matters, in view of the law laid down by the Apex Court in State of Punjab Vs. Joginder Singh Dhatt AIR 1993 Supreme Court 2486 and in Shilpi Bose Vs. State of Bihar AIR 1991 Supreme Court 532.

5. The fact that applicant is due to retire within a period of less than 2 years is not in dispute. His date of superannuation is 31<sup>st</sup> March, 2010. There is further no dispute that according to transfer policy as contained in Article 71 of the Education Code, such an employee who is to retire within a period of less than 3 years, is to



be accommodated as far as possible at a station of his choice. There is further no dispute that wife of the applicant is also employee of Kendriya Vidyalaya Sangathan and is serving at Kanpur. What I want to say is that the request of the applicant for accommodating him at Kanpur does not appear to be ill-founded, as he served for 26 years in North East Region. No doubt, the court cannot issue a mandate to the respondents to post him at one station or at another, but the Tribunal expects that the matter of the applicant will be considered sympathetically keeping in view the relevant facts and circumstances including those mentioned above.

6, So, this O.A. is finally disposed of with a direction to the respondent No. 3 to consider the request of the applicant for posting him at any Kendriya Vidyalaya in Kanpur or at nearby place such as Lucknow within a period of 2 months from the date, a certified copy of this order together with the copy of representation dated 9.4.2008 is produced before him. No cost.

  
**(Khem Karan)**  
**Vice Chairman**

HLS/-