

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 124 of 2011

This the 04th day of April, 2011

**Hon'ble Mr. Justice Alok K Singh, Member-J
Hon'ble Mr. S.P. Singh, Member-A**

Smt. Malti Tiwari, Aged about 58 years, W/o Sri M.K. Tiwari, R/o 383, Friends Colony, Rama Devi, G.T. Road, Kanpur, lastly posted as TGT, Kendriya Vidyalaya No.1, Chakeri, Kanpur.

.....Applicant

By Advocate : Sri A.P. Singh

Versus.

1. Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16 through its Chairman.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, RO, Aliganj, Lucknow.
4. Principal, Kendriya Vidyalaya no.1, Chakeri, Kanpur.

.....Respondents.

By Advocate : Sri Surendran P.

O R D E R (oral)

By Justice Alok K Singh, Member-J

Heard the learned counsel for the parties and perused the pleadings on record including the Supplementary Affidavit which has been filed now.

2. At the outset, it may be mentioned that this is 5th round of litigation. The applicant had filed two O.As before Lucknow Bench

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of the Tribunal while two O.As have been filed before Allahabad Bench of the Tribunal and thereafter the matter went upto Hon'ble High Court at Allahabad.

3. In the present O.A. the following relief(s) have been sought:

- "(a) *to issue an order or direction directing the respondent no.3 to consider the case of the applicant for accommodating her at Kanpur or nearby station as prayed in application/ representation dated 23.2.2011 as contained in Annexure no. A-11 on humanitarian grounds with a specified period or in alternative forward the same to the respondent no.2 for disposal of the same.*
- (b) *to issuing passing an order or direction directing the respondent no.3 not to take any coercive measure against the applicant till disposal of the representation dated 23.2.2011.*
- (c) *any other order or direction which this Hon'ble Tribunal deem fit appropriate in the interest of justice.*
- (d) *Allow this application with costs."*

4. As mentioned in the order of Hon'ble High Court, the applicant was relieved on 22.6.2010. But she has not joined there till date. She is continuing to be on alleged leave. The Hon'ble High Court had already observed that the employee avoiding transfer orders for such long periods loose sympathy of court and may attract disciplinary action. The relevant paragraphs are quoted below:

"We find that the petitioner's case has been considered in detail, in terms of the transfer policy. Even if she had served on a hard posting at Dantewara in the State of Chhatisgarh, she being the senior most posted at Kanpur since 2003 (for seven years), would fall within the transfer policy to be transferred from the district.

Before parting with the case, we may observe that the petitioner was relieved on 22.6.2010 in pursuant of transfer order dated 21.6.2010 and is continuing on leave. The employees avoiding transfer orders for such long period loose sympathy of Court and may attract disciplinary action.

The Writ petition is dismissed."

5. Concededly, the order of Hon'ble High Court has not been challenged before Hon'ble Supreme Court. In view of the aforesaid observation of Hon'ble High Court, we feel handicapped in dealing

with this matter further. It is also noteworthy that the applicant has not come before this Tribunal with clean hands. It is only when the learned counsel for the respondents pointed out that several unsuccessful attempts have already been made by the applicant and the matter had also went upto Hon'ble High Court, then the Supplementary Affidavit has been filed enclosing therewith some of those orders.

6. In view of the above, this O.A. is dismissed at admission stage. No order as to costs.



(S.P. Singh)
Member-A

Girish/-



(Justice Alok K. Singh)
Member-J