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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1270/99.

Date of Order :- 30-9-1999.

Between :

Nidhi Gupta, w/o Gaurav Agarwal,
Hindu, aged about 31 years,
Occ- Chemistry Teacher, Resident
of Hyderabad.

.. Applicant

And

1. Kendriya Vidyalaya Sangathan,
represented by its Assistant
Commissioner, KVS, R/o
B-7, Vikrampuri, Secunderabad.
2. The Principal, Kendriya Vidyalaya No.2,
Survey of India, Uppal, Hyderabad. ... Respondents

For Applicant : Mr. C.V. Nagarjuna Reddy, Advocate.

For Respondents : Mr. B.N. Sharma, Sr.CGSC.

Coram :

The Honourable Mr. Justice D. H. Nasir, Vice-Chairman.

O R D E R.

1. By order dated 18.8.1999 issued by the Principal Kendriya Vidyalaya No.2, Survey of India, Uppal, Hyderabad, the applicant Smt. Nidhi Gupta, PGT (Chemistry) was directed to handover charge of Chemistry Lab of KV No.2, Uppal before joining Kendriya Vidyalaya, FCI, Ramagundam on her ~~fitness~~ transfer. The applicant is resisting the said order on the ground that the order of her transfer dated 9.8.1999 was described as being surplus adjustment without informing the applicant how she was placed under surplus adjustment. According to the applicant, there are 15 Kendriya Vidyalayas in Twin cities. Several PG Teachers in Chemistry

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have been working for periods ranging from 10 to 20 years in different schools in Twin cities. She held the substantive post in the Kendriya Vidyalaya. She does not dispute that the post which she was holding was a transferable post not only from one school to another in the same city but also from one State to another State all over the country. Further according to her, she worked at Ramagundam for about 5 years and was transferred to Hyderabad recently and within 9 months of her joining at Hyderabad, she was again sought to be transferred back to the same place which is situated at a distance of 350 Kms. from Hyderabad; whereas, according to her, other teachers were allowed to work at Hyderabad for years on end. She states in her OA that she was in advanced stage of pregnancy and that she was on leave from 3.8.1999 on account of her pregnancy. She concedes that the transfer is an incidence of service. However, according to her, the employer's right of transfer could not be permitted to be exercised at the cost of causing immense prejudice to the employees. The applicant further points out that the Government of India through its letter GOI Ministry of Personnel and P. G. vide No.28034/7/86-Estt(A) issued guidelines providing inter alia that as far as possible the spouse should be posted at the same station. The applicant states that her husband was employed in a private organisation at Hyderabad i.e. Hotel Golkonda and it was not a transferable job.

2. While resisting the pleadings made in the O.A., the respondents in their counter affidavit urge that the requirement of staff and classes were worked out every year in accordance with the norms fixed by the Kendriya Vidyalaya Sangathan and that necessary sanction of staff and classes was issued to every Vidyalaya every year and for the current academic year; and that since

there was no provision to keep any surplus teacher in the Vidyalaya, the teachers were required to be transferred to the nearest Kendriya Vidyalaya where a clear vacancy existed or to a place of their choice subject to availability of vacancy. Further according to the respondents, the applicant's transfer from Kendriya Vidyalaya-2 Uppal, Hyderabad to Kendriya Vidyalaya, F.C.I. Ramagundam was in public interest under surplus adjustment in compliance with the Sangathan's letter dated 3.8.1999. It is further stated in the counter affidavit that Classes XI and XII (Science Stream) had been withdrawn and therefore, one PGT each in subject Physics, Chemistry and Biology had also been withdrawn by Kendriya Vidyalaya Sangathan (Hqrs) vide its Staff modification order No. F.12-16/94-KVS(&M) dated 23.7.1999. The KVS(Hqrs) instructed the Assistant Commissioner, Hyderabad Region to adjust surplus teachers within the region subject to ~~the~~ availability of vacancies in the Kendriya Vidyalaya and to intimate the unadjusted teachers for deployment outside the region vide its letter No.F.1-3/99-KVS(Estt.III) dated 3/4.8.1999, and in compliance with the said instructions, the applicant has ^{been} transferred to Kendriya Vidyalaya, ^{FCI, Ramagundam} which is the nearest available vacancy along with other surplus teachers in the region. It was in these circumstances, that the applicant was relieved in absentia ^{when} as she was on medical leave. It is further stated in the counter affidavit ^{in page 6} that the applicant is ^{been} free to join after having declared medically fit by the doctor.

3. Further according to the respondents, there was no provision to transfer the seniormost teacher to adjust the surplus teachers. The seniormost teacher rendered surplus in the Vidyalaya is transferred to other Vidyalaya

and only the teacher rendered surplus due to automatic surplus ~~or created surplus~~ would be disturbed by the Sangathan.

4. Further according to the respondents, it was evident that the Kendriya Vidyalaya Sangathan had withdrawn the post of PGT (Chemistry) from Kendriya Vidyalaya-2 Uppal vide its staff modification order for the year 1999-2000 and the applicant being the seniormost PGT (Chemistry) in the Vidyalaya had been rendered surplus in accordance with the policy of the Sangathan and the applicant had been transferred to the nearest Kendriya Vidyalaya i.e., FCI Ramagundam where a clear vacancy of PGT (Chemistry) was available.

5. It is pertinent to note that vide transfer order No.2/1999-2000 dated 9.8.1999 issued by the respondents, as many as 21 teachers were transferred under surplus adjustment in compliance with the Sangathan's letter No. F.1-3/99-KVS (Estt.III) dated 3.8.1999. But it is clearly stated in the transfer order that the transfers in question were made in public interest. The name of the applicant appears at Sl.No.3 of the said order.

6. It is ~~true~~^{not disputed} that the present applicant has been subjected to fresh transfer within 14 months after her transfer from Ramagundam to Hyderabad. However, at the same time, we cannot ignore the fact that her transfer from Hyderabad to Ramagundam had to be resorted to for meeting the exigencies of the situation. Her transfer order in question is evidently not induced by any prejudice against her. There is also no allegation of the transfer being vindictive or punitive. In this circumstance, it is not legal and proper for this Tribunal to interfere with the impugned order of transfer which may upset and affect a number of teachers who have been subjected to transfer purely for administrative convenience and the consequent public interest. A specific note is also required to be taken of the fact that the respondents have ~~clearly~~[✓] stated in their counter affidavit that the applicant

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is free to join after having ^{been} declared medically fit by the doctor. Apart from the same, as already seen above, the requirement of staff and classes were worked out every year as per the norms fixed by the Kendriya Vidyalaya Sangathan and necessary sanction of staff and classes was issued to every Vidyalaya every year for current academic year. However, since there was no provision to keep any surplus teachers in the Vidyalaya, they were required to be transferred to the nearest Kendriya Vidyalaya where clear vacancies exist or to a place of their choice subject to availability of vacancy. This situation gives us a substantial cause to believe that the applicant's transfer in question was not occasioned by any mala fides against her but it was in keeping with the requirement and exigencies of the situation. It would, therefore, not be in order and it would also not be legal and proper for us to interfere with the impugned order of transfer as such interference is likely to cause far reaching adjustments to be made so as to fall in line with the guidelines for issuing the order of transfer. The allegation made by the applicant that the impugned relieving order issued in her absentia should not have been resorted to, does not give us any cause to believe that any unnecessary and hasty step was taken by the respondents for issuing the transfer order as the applicant's transfer was found to be part and parcel of the transfers which were required to be made by the respondents in accordance with the norms and guidelines for transfer which had been scrupulously followed and practiced in all these years. In that view of the matter, therefore, the mere fact that the applicant was on leave when the transfer order was issued does not give the transfer a colour of any prejudice against the applicant or having been resorted to with a view to hastily taking any action, which could not have been done if she was on duty.

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7. In the result, therefore, we do not find any merits in the applicant's case and the same deserves to be dismissed. Hence the O.A. is dismissed; however with no order as to costs.

D. H. Nasir
(D. H. NASIR)
VICE-CHAIRMAN.

DATED THE 30th DAY OF SEPTEMBER, 1999.

DJ/

EST. AND JUD. COURT

25/10/99

COPY TO :-

1. HON'D C

2. HRRN A. (A)

3. HSCP M (O)

4. D.R. (A)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

TYPED BY : CHECKED BY
COMPARED BY : APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NAGIR
VICE - CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR. S. S. JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 30/9/99

MR. RA/CP. NO.

IN

CA. NO. 1270/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

