

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO.291/00709/2015

Date of Order: 17.05.2016

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Sunil Prakash Mathur S/o Mr. O.P.Mathur, aged about 55 years, R/o 10-A, Brijraj Enclave, Gali No.5, Panchyawala, Sirsi Road, Jaipur, presently posted at KV-5, Jaipur as a PGT(Maths).

.....Applicant

(By Advocate Ms. Pradeep Lata Mathur)

VERSUS

Kendriya Vidyalaya Sangthan, 18, Industrial Area, Shahid Jeet Singh Marg, New Delhi through its Addl. Commissioner (Admn & Vig.)

.....Respondent

(By Advocate Mr. Hawa Singh)

ORDER

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 against non-consideration of the applicant for intra-station transfer from KV No.5 (2nd Shift, Mansarovar), Jaipur to KV No.4 (Khatipura) Jaipur seeking the following reliefs:

8.(a) Direct the respondent to consider the representations of the applicant duly submitted through proper channel regarding grievance related to the transfer of the employees.

(b) Direct the respondents to name of the applicant for intra-station transfer and modify the transfer order.

(c) Direct the respondents to produce all the record sof the case along with their reply for perusal by this Hon'ble Tribunal.

(d) Allow the cost of this application to the applicant.

(e) Pass such other orders or reliefs as deemed fit and proper in the facts and circumstances of the case in the favour of the applicant and against the respondent and for this act of kindness, the humble applicant as in duty bound, shall ever pray.

2. When the matter came up for hearing today, the Ld. Counsel for the applicant submitted that the applicant is working from the year 2007 in KV No.5 (Mansarovar, Jaipur) as PGT(Maths) in 2nd Shift and he is persistently representing, and also submitted an application dated 13.4.2015 as at Ann.A/2, for his intra-station transfer to KV No.4, Khatipura Jaipur as per guidelines at Ann.A/6 as his spouse is working as a Librarian at KV No.4 Jaipur. Counsel for the applicant also submitted that the applicant has always put in his best services and has also received a letter dated 11.7.2015 (Ann.A/1) congratulating him on the stellar performance of his students in the Senior School Certificate Examination of CBSE from the Hon'ble Minister of Human Resources Development, Govt. of India, New Delhi.

3. Counsel for applicant further submitted that the applicant's representation dated 30.6.2015 was also forwarded to KVS Headquarters, New Delhi vide letter dated 30.7.2015 (Ann.A/4) by the Regional Office, Jaipur. However, his case was not considered though in another case one PGT-Mathematics teacher Mr. Vinod Kumar has been transferred on intra-station basis from KV-6 (Pratap Nagar, Jaipur) to KV-5 (Mansarovar, Jaipur) as may be seen from Ann.A/3. Counsel for applicant further contended that even the vacancy of PGT-Maths at KV-4 was filled up recently vide order dated 16.7.2015 (Ann.A/7) by posting one person Shri Harish Meena from Beawar to KV-4, who could have easily been accommodated at KV No.5 (Second Shift, Mansarovar) and the applicant transferred to KV No.4. Counsel for the applicant thus contended that the respondents are not giving due consideration to his case and prayed for the OA to be allowed.

4. Per contra, counsel for respondents contended that respondents are acting according to the guidelines and that the transfer of Mr. Vinod Kumar as at Ann.A/3, is a different case and does not in

anyway affect the applicant. He further submitted that as far as recent order dated 16.7.2015 (Ann.A/7) of Shri Harish Meena to KV-4 is concerned that has been made under Para 13 of the Transfer Guidelines by the competent authority and cannot be questioned in this OA. He further referred to para 5 of the reply (at page 56 and 57) in which it has clearly been brought out that the applicant's name was considered for intra-station transfer along with all other PGT (Mathematics) teachers who applied for the transfer to Jaipur as per KVS Transfer Guidelines at the time of annual request transfer process for the year 2015-16 but he could not get the request transfer to his choice place for want of vacancy. Moreover, the name of the applicant is figuring at second priority position for Kendriya Vidyalaya No.4 , Jaipur in intra-station transfer of the year 2015-16 and Shri Gajay Singh Yadav, PGT (Mathematics) above to him also could not get transfer. Counsel for respondents, therefore, submitted that there is no violation of guidelines with regard to applicant. Counsel for respondents also submitted that the distance between KV-5 and KV-4 is just 15 kilometers and there is actually no hardship to the applicant. Regarding to a query made by this Tribunal, counsel for respondent submitted that though the transfer process for the year 2015-16 has been closed, as may be seen from Ann. R/1 dated 22.2.2015, but to the best of his knowledge transfers for the year 2016-17 are under process. On all these grounds counsel for respondents prayed for dismissal of the OA.

5. Rebutting the contentions of the counsel for the respondent, counsel for applicant submitted that the applicant has given his best services to the KVS and his case is required to be considered according to the guidelines and also in view that his wife is working in KV-4 and further submitted that the person referred to in the reply i.e. Mr. Gajay

Singh Yadav has since been transferred to Jodhpur and therefore, the case of the applicant is now anyway No.1 in the list.

6. Considered the aforesaid contentions and perused the record. The applicant made the request for intra-station transfer vide application dated 13.4.2015 (Ann.A/2) and submitted a representation on 30.6.2015 (Ann.A/4) which was duly forwarded and one representation more recently on 19.8.2015 (Ann.A/8). The applicant's request for intra-station transfer is mainly on the ground that the spouse of the applicant is working in KV-4 and while other cases have been considered, but his case has not been given due consideration. It has also been submitted by the counsel for applicant that Mr. Gajay Singh Yadav who was No.1 in the seniority (as per reply of the respondent) has since been transferred to Jodhpur and, therefore, applicant has a better claim now.

7. In this regard as far as intra-station transfer of Shri Vinod Kumar from KV-6, Jaipur to KV-5 Jaipur, as at Ann.A/3, is concerned, as argued by the counsel for respondent, it does not in anyway affect the applicant and further the transfer of Shri Harish Meena from Beawar at KV-4, Jaipur vide Ann.A/7 has been made under Para 13 of the guidelines and cannot be questioned in this OA. However, it is not disputed that the wife of the applicant is working in KV-4, Jaipur, but the applicant's position regarding seniority for intra-station transfer, in case one Shri Gajay Singh Yadav has been transferred to Jodhpur, is a matter of record.

8. Ordinarily, as upheld by the Apex Court in a catena of judgments that Courts and Tribunals should not interfere in the matter of transfers and postings as they are the incident and conditions of the service, unless there is proven malafide, violation of the statutory rules or the transfer order has been issued by the authority not

competent to do so, which is not so in this case. However, in this case as the applicant's earlier representation dated 30.6.2015 had been forwarded both by the Principal and R.O., Jaipur to KVS Headquarters, New Delhi (Ann.A/4) and he also filed a recent representation for intra-station transfer on 19.8.2015 (Ann.A/8) and that the transfer process of 2015-2016 is closed but the transfer and postings for 2016-17 are said to be under process, and that the applicant's services have been appreciated vide letter dated 11th July, 2015 (Ann.A/1) it is deemed appropriate to dispose of this OA just with certain directions. Accordingly, the respondents are directed that if the applicant makes any fresh application/representation giving all relevant details within a week from the date of receipt of copy of this order, the respondent may consider and decide the same sympathetically in accordance with law.

With these directions, the OA is disposed of with no order as to costs.



(MS.MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

Adm/