

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.543/99

Date of order: 28/2/2000

Mrs.Smita Bansal, W/o ShriAjeet Bansal, R/o 120/222, Inder Path, Agarwal Farm, Mansarovar, Jaipur.

...Applicant.

Vs.

1. Kendriya Vidyalaya Sangathan through Commissioner, Kendriya Vidyalaya Sangathan, Shaheed Jit Singh Marg, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
3. Smt.Reeta Mishra, Primary Teacher, Kendriya Vidyalaya No.1, Jaipur.

...Respondents.

Mr.P.P.Mathur - Counsel for the applicant

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the impugned order of transfer dated 7.4.99, so far as the applicant is concerned and to direct the respondents to post the applicant at Jaipur.

2. In brief facts of the case as stated by the applicant are that while she working as Primary Teacher at Kendriya Vidyalay (K.V), Jcbner, was transferred to Suratgarh on closure of K.V. Jcbner, vide order dated 7.4.99. It is stated that most of the teachers who were working at K.V Jcbner were adjusted at K.V.Jaipur. The Kendriya Vidyalaya Sangathan, had issued a circular that if a teacher is declared surplus such teacher should be deployed only in the nearby K.V. It is also stated that on option she had indicated her choice for Jaipur only and before the impugned order was issued, she made a request/representation to post her at Jaipur on the ground of her illness and her 8 years old son needs care of the mother. It is also stated that the application of the applicant for transfer to Jaipur was forwarded by the Principal, K.V.Jcbner with his recommendation for favourable action, but with no result. It is further stated that there is a practice at K.Vs. to deploy the surplus staff in the nearby schools only and Smt.Manju Mathur and Shri M.L.Sharma, were also adjusted at Jaipur. It is also mentioned that one post of Primary teacher is

lying vacant at K.V Sanganer against leave vacancy and on this ground the applicant is entitled to be posted at Jaipur. Therefore, the applicant has filed this O.A for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that transfer is the incidence of service and it is the competent authority who decides when, where and at what point of time a public servant is transferred from one place to another. It is stated that the applicant has already been relieved in compliance of the order dated 7.4.99, therefore, the order of transfer has already been acted upon. It is further stated that no malafides are alleged against the respondents, therefore, this Tribunal should not interfere with the impugned order of transfer. If the applicant is having any personal difficulty/grievance, proper action is to approach the competent authority rather to challenge the same before this Tribunal. The ground of discrimination has also been denied by the respondents. It is stated that the O.A is devoid of any merit and liable to be dismissed.

4. Rejoinder has also been filed which is on the record.

5. The learned counsel for the parties have requested to dispose of this O.A at the stage of admission, therefore, the arguments were heard and we have perused the whole record.

6. The learned counsel for the applicant has argued that on closure of K.V Jobner, the Kendriya Vidyalaya Sangathan had issued an order for redeployment of the staff of K.V Jobner to nearby K.Vs or to their choice places but the applicant has neither been redeployed at her choice station nor nearby station to K.V Jobner. He has also argued that Smt. Manju Mathur and Shri M.L. Sharma, were adjusted to Jaipur but she has been discriminated whereas she can be adjusted against the vacant post of leave vacancy at K.V. Sanganer looking to her personal difficulties but the same has not been done by the respondents.

7. On the other hand the learned counsel for the respondents has argued that transfer is the incidence of service and it is the competent authority to decide when, where and at what point of time a teacher is transferred from one place to another. It has also been argued that the applicant has not been discriminated in any way and she has not been transferred alone at Suratgarh but other primary teachers of K.V Jobner have also been transferred. Therefore, the applicant has no case.

8. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record and the legal citations referred to by the counsel for the respondents in the reply.

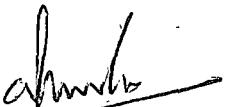
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9. No doubt, transfer is the incidence of service and the employee has no right to be posted at a particular station. It is also a settled position that the competent authority decides where and when an employee has to be transferred and if there are personal difficulties to the employees, they should approach the competent authority by filing representation for redressal of their grievance. No malafides have been alleged against the respondents. On closure of K.V Jobner, the applicant alongwith others have been transferred to Suratgarh. On a perusal of the impugned order of transfer, it appears that on deployment no primary teacher has been posted/ adjusted at Jaipur. Therefore, the ground/allegation of discrimination against the respondents are not sustainable in law as well as in fact. The intention of the circular issued by the Kendriya Vidyalaya Sangathan as referred above is to adjust the teachers on deployment to nearby K.V if it is feasible. Therefore, we cannot say that there was any infraction of the professed norms in issuing the impugned order of transfer, as regards the applicant is concerned.

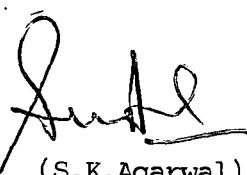
10. Therefore, we do not find any basis to quash and set aside the impugned order of transfer. However, the applicant is making grievance before the concerned authority from the very beginning that she should be posted at Jaipur, looking to her own illness and conditions of her 8 years old son as well as her husband being in business at Jaipur. But we regret to say that the representation filed by the applicant either has not been decided or if decided the result has not been communicated to her so far. In view of the personal difficulties, her representation should have been considered sympathetically for her posting at Jaipur or at nearby K.Vs if it is feasible. We, therefore, observe that the applicant should be considered for her posting at Jaipur or at any K.Vs nearby Jaipur, in near future looking to her personal difficulties/ grievances, as referred above.

11. We, therefore, dispose of this O.A with the direction that in case the applicant files a fresh representation within 15 days, from the date of receipt of a copy of this order, her grievances should be considered sympathetically and if feasible she should be adjusted at Jaipur or nearby places, in near future.

12. No order as to costs.


(N.P. Nawani)

Member (Adm).


(S.K. Agarwal)

Member (Judl).