

Central Administrative Tribunal
Jabalpur Bench

OA No.766/05

Jabalpur, this the 7th day of December 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

R.R.Patel
S/o Shri K.C.Patel
P.G.T. (Geography)
K.V.No.1, Sagar Cantonment
Sagar (MP)
(U/o of displacement-transfer to
K.V.Tezpur (Assam) from K.V.No.1
Sagar Cantonment.

Applicant

(By advocate Shri Manoj Sharma)

Versus

1. Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi
Through its Commissioner
 2. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office
Jabalpur.
 3. The Principal
Kendriya Vidyalaya No.1
Sagar Cantonment
Opposite Sagar cantonment Board Office
Sagar (MP).
- Respondents.

(By advocate Shri M.K.Verma)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following
reliefs:



- (i) Quash and set aside the impugned orders dated 30.5.2005, 14.7.2005 and 11.8.2005 (Annexures A1, A2 & A3) respectively relating to the applicant.
- (ii) Direct the respondents to reinstate the applicant to K.V.No.1, Sagar on the post of PGT (Geography) or alternatively, his request for modification of transfer to PGT (Geography) in K.V. Singrauli/Gwalior or nearest to Sagar ought to be acceded.

2. The brief facts of the case are that the applicant joined Kendriya Vidyalaya Sangathan as LDC on 13.7.1987 at K.V.No.1, Sagar. Thereafter he was promoted and transferred to K.V., Nayagaon, Mandsour as P.R.T. On 19.11.1993, applicant was selected as TGT and posted at K.V.Baikunthpur, which is declared to be a hard station. In September 1995, the applicant was transferred to K.V, Damoh in the same capacity. Vide order-dated 24.9.97, the applicant was selected on the post of TGT (Geography) and transferred to K.V. No.1 (AFS), Jorhat (Assam) (North-East and Hard Station). On completion of 5 years at Jorhat, the applicant was further transferred to K.V.No.1, Sagar Cantonment vide order-dated 7.6.02. However, vide impugned order dated 30.5.205 (annexure A1), the applicant was again transferred to Assam (Tezpur) under Clause 10 (2) of K.V. Guidelines. Challenging this transfer, the applicant has filed this OA. It is alleged in the OA that the transfer has been made in order to accommodate one Shri Mahesh Prasad Kurveti violating the transfer guidelines. Though the applicant made several representations in this regard, yet the respondents did not consider those representations.

3. Heard learned counsel for the parties and perused the records. It is argued on behalf the applicant that as per the transfer guidelines, Clause 10 (3), the applicant ought to have been accommodated in the nearest Kendriya Vidyalaya against clear vacancies and in his various representations vide A-5 & A7, the applicant has specifically mentioned that clear vacancies of PGT (Geography) exist in GCF-I, Jabalpur/Singrauli/Babena/Itarsi/Gwalior etc. but the respondents have not acceded to the request of the applicant. On this count alone, the impugned orders are liable to be quashed. The applicant has



rendered nearly 5 years in KV No.1, Jorhat (Assam) which is a hard station hence shunting the applicant back to North East within a span of 3 years is gross violation of respondents' own policy. My attention is drawn to an order in MA No.762/2001 (H.R.Chourasia vs. KVS and others) in which the Tribunal has ordered that the transfer order be modified and the applicant be posted at Narsinghpur or at Raipur. This order was upheld by the Hon'ble High Court vide order dated 10.1.2002 in W.P. No.639/01. Respondents have not considered the genuine problems of the applicant.

4. In reply, learned counsel for the respondents argued that unless the transfer is against the transfer guidelines, statutory rules and is actuated with malafide, the same cannot be interfered with in a judicial review. The applicant has been the beneficiary of the transfer guidelines, which were in vogue prior to 19.1.2005 and he cannot now complain that his rights have been infringed upon. Shri M.P.Kurveti, PGT (Geog.) is working in KV.No.1 Jorhat, which comes under North East region and he was eligible for getting transfer under para 10(2) of KVS latest transfer guidelines effective from 19.1.2005 to his choice place as he had completed his tenure at NE region. As per para 10 (2) of KVS transfer guidelines, the applicant is the junior most teacher in the said station of the same category (post/subject). The representations submitted by the applicant regarding modification of his place of displacement has been examined and considered sympathetically by the competent authority and the same could not be acceded to due to non-availability of vacancy at choice places. Hence the action of the respondents is perfectly legal and justified.

5. After hearing learned counsel for both parties and perusing the records, I find that Clauses 10 (2) & (3) of the transfer guidelines Annexure A6 provide as follows:

"10(2) Where transfer is sought by a teacher under clause 8 of the transfer guidelines after a continuous stay of 2 years in the very hard station or 3 years in the North East, A&N Islands and other declared hard stations or by a teacher falling under the grounds of medical/death of spouse/less than three years to retire or



very hard case involving human compassion, in the event of non-availability of vacancy at his choice station, the vacancy shall be created to accommodate him by transferring the junior most teacher in the service of KVS in the said station of the same category(Post/Subject). However, the Principals who have been retained under clause 4 to promote excellence would not be displaced under this clause.

10(3) While displacing teachers efforts will be made to accommodate them in the nearest KV against clear vacancy."

It is argued on behalf of the respondents that Shri M.P.Kurvetti, PGT (Geog.) is working in KV.No.1 Jorhat, which comes under North East region and he was eligible for getting transfer under para 10(2) of KVS latest transfer guidelines effective from 19.1.2005 to his choice place as he had completed his tenure at NE region. As per para 10(2) of KVS transfer guidelines, the applicant is the junior most teacher in the said station of the same category (post/subject). According to clause 10(2) of the aforesaid guidelines, transfer is to be sought by a teacher after continuous stay of 2 years in a very hard station or 3 years in the North East, A&N islands and other declared hard stations. The applicant is presently posted at Sagar. Hence this clause is not applicable in his case. Another arguments advanced on behalf of the respondents is that he representations submitted by the applicant regarding modification of his place of displacement has been examined and considered sympathetically by the competent authority and the same could not be acceded to due to non-availability of vacancy at choice places. It shows that the respondents have considered the representations of the applicant in view of clause 10 (3) of the aforesaid transfer policy. The applicant could not have established any malafide against the respondents or violation of any statutory rule or transfer policy. The Hon'ble Supreme Court has held in so many pronouncements that Courts/Tribunal should not normally interfere with transfer matters unless it is malafide or in violation of mandatory statutory rules.



6. Considering all facts and circumstance of the case, I am of the considered view that the OA has no merit. Accordingly, the OA is dismissed. No costs.



(Madan Mohan)
Judicial Member

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पृष्ठंकन सं. ओ/नं. जयपुर, दि.
चलितदिनांक
(1) राजेश, स. नं. जयपुर
(2) आशोक, स. नं. के काउंसल
(3) प्र. नं. के काउंसल
(4) कं. नं.
सूचना एवं आवश्यक कार्रवाई

Manoj Sharma
M.K. Verma

06/12/2005 उप सचिव

Forwarded
8-12-05