

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 597 of 2003

Jabalpur, this the 28th day of November, 2003

Hon'ble Mrs. G. Shanthappa, Judicial Member

Smt. Preeti Lata Badkur,
Wife of Shri Vijay Kumar Badkur,
Aged about 39 years,
Working as post Graduate Teacher
(Maths) at Kendriya Vidyalaya,
Pachmari, District Hoshangabad, MP

APPLICANT

(By Advocate - Shri M.Singh)

VERSUS

1. Union of India,
Through Secretary
Ministry of Human Resource and
Development, New Delhi.
2. The Kendriya Vidyalaya Sangthan,
Through its Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi.
3. Assistant Commissioner
Kendriya Vidyalaya Sangthan,
Regional Office, Bhopal, MP.
4. Shri Amir Chand Jain,
Post Graduate Teacher(Maths),
Kendriya Vidyalaya, Hoshangabad,
MP

RESPONDENTS

(By Advocate - Shri M.K. Verma)

O R D E R (ORAL)

The applicant has filed the above application seeking following relief :-

- (1) to quash the impugned transfer order dated 31.3.2003(Annexure-A-1) and the relieving order dated 7.4.03(Annex.A/3);
 - (2) to direct the respondents to issue appropriate order of posting of the petitioner at Bhopal as per her application from (Annex.A/2).
2. The case of the applicant is that the applicant has joined her services as a TGT(Trained Graduate Teacher) on 29.7.88 and she was posted at Jabalpur and Hoshangabad uptill her promotion as PGT on 2.8.95. Subsequent

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was posted at Itarsi followed by her transfer to Hoshangabad. During her services, the applicant and also her entire family members are suffering from sickle cell anemia a chronic disease leading to loss of hemoglobin and oxygen in the blood. The applicant and her family members taking treating at Bhopal, now the applicant has been transferred at Pachmarhi which is a hill station. The climate of the hill station is not suitable for the applicant and family members, since they are suffering from chronic disease. Under the subsequent order of transfer, she has been relieved vide order dated 7.4.03(Annexure-A-3). Before relieving from the duties, the applicant had requested the respondents to consider the representation on the ground the family members are suffering from chronic disease. Then the applicant reported for duty in pursuance to the relieving order dated 7.4.03(Annexure-A-3). Subsequently the applicant has submitted her representations as per Annexure-A-11 and Annexure-A-12 respectively requesting on personal difficulties to post her at Bhopal. The said representation are pending the respondents. The applicant has approached this Tribunal for cancelling the order of transfer from Bhopal to Pachmarhi. During the pendency of the OA, the applicant has filed MA No.1588/03 for consideration of document dated 29.9.03 which states that the some diseases which are mentioned in the said letter are also chronic disease in which "Thalassemia" is the same disease, the applicant and her family members are also suffering from same disease.

3. The respondents have filed their reply stating that since the applicant has not completed period of tenure her request cannot be considered on account of guidelines, para 1 and 2 are extracted as under :-

1. KVS has formulated transfer guidelines w.e.f. 2000-2001 and circulated it to all employees of KVS. In terms of clause 10(1) of the transfer guidelines where a transfer is sought by a teacher after continuous stay of 03 years in the North East and Hard Station and 05 years elsewhere at places which were

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not of his choice, the vacancies shall be created to accommodate him by transferring teachers with the longest period of stay at that station provided they have served for not less than 06 years at that station.

2. In the transfer guidelines, clause 11 clearly stipulates that priority list-I and II are maintained these priorities were put on Website of KVS for the information of all concerned. Priority list-I shall contain all the applications received for transfer showing the entitlement points against each applicant. However, the list-I is perated against the clear vacancies available during normal course for being filled up. List-II contains cases of transfer in terms of clause 10 of the transfer guideline listing all the applicants of transfers also the entitlement points of each applicant in terms of priorities. The priority list-II also contains names of teachers who have completed the tenure period in hard stations and North East and also the cases covered under medical grounds (in respect of identified and notified diseases which are covered by the transfer guidelines). Para-9 of the transfer guidelines provides for the purpose of calculating of entitlement points in respect of medical grounds as mentioned in the proviso to para 7 of transfer guidelines such illnesses of teacher himself/herself or his/her spouse and dependent son/daughter alone as may be prescribed by the commissioner will be considered as medical grounds for transfer/ applicants included in priority list-II will be accommodated by transferring teachers with longest period of stay at that station provided they have served for not less than 05 years from the date of joining at that station.

4. The respondents have relied on the judgment of the Hon'ble Supreme Court and also ⁱⁿ support _{of} action of the respondents and requested for dismissal for the OA.

5. I have heard the learned counsel for the applicant and respondents, after considering the pleadings and documents placed on record.

6. The said OA disposed of on the short ground. The respondents to consider the representations of the applicant Annexure-A-11 and Annexure-A-12 respectively and also directing the respondents to consider the personal problems and also the chronic disease suffering by the applicant and her family members. The respondents shall consider the documents which are produced along with this OA and pass an appropriate order, ~~for~~ ^{transfer} to ~~the~~ _{the} applicant at Bhopal or near place which is convenient to the applicant.

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to enable the applicant to take medical facility of the chronic disease. If ^{is} further directed, the respondents also shall ~~not~~ consider the nature of the disease and also ^{execute} ~~execute~~ his direction according to the guidelines for transfer.

7. The advocate for the applicant submitted that there are two post are vacant at Bhopal. It is futher directed the respondents to consider the case of the applicant and to post/^{him to} any one of the posts which is vacant at Bhopal.

8. The respondents shall consider the case of the applicant as per Annexure-A-11 and Annexure-A-12 respectively and also documents which are produce in this OA and pass an appropriate order as mentioned above. The said compliance has to be made within a period of 15 days from the date of receipt of copy of this order. The OA is disposed of on the above direction. No costs.

(Signature)
(G. Shanthappa)
Judicial Member

SKM

पुस्तकालय नं. १०१/१०२
राज्यपालिका,
(1)
(2)
(3)
(4)
राज्यपालिका,

M. Singh, Adv
Mr. Verma, Adv

7/12/03

(Signature)
5/12/03