

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 638/2003

Jabalpur, this the 26th day of September, 2003.

Hon'ble Mr. G. Shanthappa, Judicial Member

Kamlesh Kumar, Aged about 39 years,
S/o Late N.L. Sihote, Sweeper,
Kendra Vidhyalaya Sanghathan,
Pachmarhi, R/o Maharshi Valmiki
Mandir - Ward, Pachmarhi, Tehsil
Pipariya, Distt. Hoshangabad (M.P.)

APPLICANT

(By Advocate - Shri K.S. Thakur)

VERSUS

1. Union of India through its Secretary,
Ministry of Human Resources Development
Department, New Delhi.
2. Asstt Commissioner, Kendra Vidhyalaya
Sangathan, Opposite Maida Mills,
Bhopal 462011-(M.P.)
3. Principal Kendra Vidhyalaya
Pachmarhi, Tehsil-Pipariya
Distt - Hoshangabad (M.P.)

RESPONDENTS

O R D E R

By G. Shanthappa, Judicial Member -

Heard Shri K.S. Thakur learned counsel for the applicant.
The case is heard finally at the admission stage itself,
without issuing the notice to the respondents only to
consider the limited oral prayer.

2. The applicant has filed this application for seeking
reliefs as follows :-

- (a) To quash the impugned transfer order Annexure-A2
and A8 by way of writ/other directions.
- (b) The respondents be further commanded to continue
the petitioner at Pachmarhi itself where he has
served as a Sweeper.

3. The advocate for the applicant submits that the applicant
is working as Group-D employee under the respondents, the said
post is permanent post. His post was approved on 27.6.1988
on the regular basis by the second respondent.



4. The respondents wanted ~~providing~~ the valuable services of the applicant at Kendriya Vidyalaya, Kamptee. The second respondent has issued the order of transfer on 12.9.03 in the interest of public. The advocate for the applicant ^{the applicant had} states that/ earlier submitted his representation on 25.11.2001 and 4.12.2001 ^{the} to/ respondents to consider his case for retention at Pachmarhi, ^{on} and/ the ground that he is medically ill. All the representations alongwith medical certificate were given to the office of the respondents.

5. In pursuance of the order of ~~the~~ transfer dated 12.9.03 The Principal of Kendriya Vidhyalay Pachmarhi has issued the relieving order, ~~the~~ relieving applicant from his office as per (Annexure-A-8) order dated 19.9.03

6. The applicant has approached this Tribunal challenging the order of transfer on the ground that the second respondent has no proper power of jurisdiction, the impugned order is full of malafide and groundless and also which is not in the interest of public. It is further urged on the ground, that normally Group-D employees of Kendriya Vidhyalaya Sangathan are not transferable outside the State, because of their financial conditions, family difficulties and ^{an} humanitarian grounds. All the grounds urged by the applicant are not tenable in the eye of law, in view of the judgments of the Hon'ble Supreme Court reported in 2002 SCC (L&S) 21 National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan & anr. and 2001 SCC(L&S) 858 State Bank of India Vs. Anjan Sanyal & Ors.

7. However the ^{advocate for the} applicant urged that the applicant has not submitted ^{any} ~~the~~ representation ^{requesting} ~~of the respondents~~ subsequent to/ ^{the} impugned order of transfer and also relieving order ^{at} with a request to retain him/ ^{at} Kendriya Vidhayalaya Pachmarhi. The advocate for the applicant further submitted that he will submit his representation with a request to retain him at Pachmarhi, ^{as} ~~the~~ permission is given of this Tribunal in similar matter in OA No. 415/03. date 1.7.2003.

8. The advocate for the applicant has also produced the Transfer guidelines and he has admitted the said guidelines have no statutory force, ^{and} which are issued only administrative ^{etc.} purpose.

9. Under the circumstances, this OA is decided at the admission stage without dealing on the legality of the impugned orders, with a ^{direction} to the applicant to submit his representation with a request as prayed in the application within seven days from today. If such a representation is submitted by the applicant, the second respondent is directed to decide the representation of the applicant within a period of 10 days from the date of receipt of ^a copy of this order, ^{which is} while deciding the representation ^{to be} submitted by the applicant, an observation made in this order is not binding on the second respondent to take an independent decision and pass an appropriate order. Till the representation is decide by the second respondent, the applicant shall not be ^{ed} compell ^{ed} to join at new place of posting.

10. The OA stands disposed of accordingly. No order as to costs.

G. Shanthappa 26/9
(G. Shanthappa)
Judicial Member

पृष्ठक्रम सं ०१/२५५..... जयपुर, दि.....
उपरोक्त पृष्ठक्रम सं ०१/२५५

- (1) सचिव, उच्च न्यायालय, जयपुर
 - (2) आवेदक श्री/श्रीमती/श्रीमती, जयपुर
 - (3) प्रत्यक्षी श्री/श्रीमती/श्रीमती, जयपुर
 - (4) वॉचमैन, कोर्ट, जयपुर
- सबका एवं आवश्यक कार्रवाई हेतु

K. S. Thakur - ACP
RSP 202 with Delite

[Signature]
26/9/03

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