

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 757 of 2003

Jabalpur, this the 21st day of April, 2004

Hon'ble Mr. Madan Mohan, Judicial Member

Kamlesh Kumar aged about 39 years
son of Late Shri N.L. Sihote, by
Occupation Sweeper Kendriya
Vidhyalaya Sanghathan Pachmarhi
District Hoshangabad, M.P.

APPLICANT

(By Advocate - Shri Manoj Mishra)

VERSUS

1. Union of India through its
Secretary Ministry of Human
Resources Development Department
New Delhi.
2. Assistant Commissioner Kendriya
Vidyalaya Sanghathan, Opposite
Maida Mills Bhopal.
3. Principal Kendriya Vidhyalaya
Sanghathan Pachmarhi District
Hoshangabad.

RESPONDENTS

(By Advocate - Shri M.K. Verma)

ORDER (ORAL)

By filing this OA, the applicant has sought the following main relief :-

"ii) To quash the impugned order in Annexure A/1 A/2 and A/5 commanding the respondent to continue the applicant at Pachmarhi by issuance of an appropriate writ or directions"

2. The brief facts of the case are that the applicant is working as Sweeper. The respondents vide order dated 12.9.2003 has transferred him from Pachmarhi to Kamti, Nagpur Maharashtra. The applicant has contended that he has never applied for any kind of transfer and normally Group-D employees like Sweeper are not transferred out of the State. The applicant has earlier filed an OA No. 638/03 for quashing the aforesaid transfer order. The Tribunal has disposed of the earlier OA with a direction to the applicant to submit



his representation to the respondents and respondents are directed to decide such representation of the applicant within 10 days from the date of receipt of such representation of the applicant. In pursuance of the Tribunal order, the applicant has submitted his representation and respondents have ~~rejected~~ ^{alaid} rejected the ~~representation~~ ^{representation} of the applicant without application of mind. Aggrieved by this the applicant has filed this OA claiming the aforesaid relief.

3. Heard the learned counsel for the applicant and respondents.

4. The learned counsel for the applicant has stated that the respondents have passed the transfer order on ~~malafide ground~~ ^{malafide ground} not in public interest. He further states that normally Group-D employees of Kendriya Vidhyalaya Sangathan are not transferred outside of the state. The learned counsel for the applicant has also stated that the Hon'ble Supreme Court has issued certain guidelines and giving concession to the SC candidates, ^{directing that} they should ^{be} ^{near to} possibly/adjusted and accommodated/their home town.

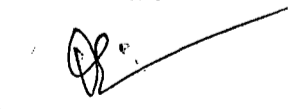
5. On the other hand the learned counsel for the respondents has stated that the transfer order passed by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Bhopal Region, ^{is} in the public interest and administrative exigency. There is neither infraction of transfer guidelines nor any malafide involved in transfer of applicant. He further states that ~~respondent~~ ^{are} Kendriya Vidyalayas/situated all over the country and the employees appointed in Kendriya Vidyalaya Sangathan are liable to be transferred any where in India in the light of Article 54(k) of the Education Code, whereby an employee who accepts the terms and conditions of the appointment in K.V.S. is liable to be transferred any where in the country, ^{and} and he has got no legal right to say

that he cannot be transferred from at any other place from his present place of posting ^{irrespective of the State.} The learned counsel for the respondents has relied upon a judgment of Hon'ble Supreme Court in the case of Rajendra Roy Vs. UOI & Anr. AIR 1993 SC 1236. In this judgment, the Hon'ble Supreme Court has observed in para 7 as under :-

" It is true that the order of Transfer often cause a lot of difficulties and dislocation in the family set-up of concerned employees but on that score, the order of Transfer is not liable to be struck-down".

6. It is well settled proposition ^{laid down} by the Hon'ble Supreme Court that the transfer is an incident of service and is an administrative matter, which should not be interfered with by the Courts/Tribunals unless it is made due to malafide or is in violation of statutory guidelines. I find that the learned counsel for the applicant has taken a ground that the Group D employees are not transferable outside of the state. Whereas the counsel for the respondents has stated that employees of the Kendriya Vidyalaya Sangathan are liable to be transferred any where in India in the light of Article 54(k) of the Education Code. The argument ^{learned counsel for the} of the applicant is not sustainable in the eye of law. I have also found that the applicant has not proved any malafide against the respondents.

7. With the above observation, the OA is bereft of merits. Accordingly, it is dismissed. No costs.


(Madan Mohan)
Judicial Member

पठक सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के वरिष्ठसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) न्यायालय, के.प.अ., जबलपुर

Shri Monoj Mishra, HC JBD
Shri Anil K Verma HC JBD

सूचना एवं आवश्यक कार्रवाई के लिए
उपनिर्देश

Filed
22-4-04