

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, the December 12th 2006

ORIGINAL APPLICATION NO. 419/2006

CORAM:

HON'BLE MR. Kuldip Singh, Vice Chairman (Judicial)

Ashvani Kumar Bhardwaj (A.K. Bhardwaj) son of Shri S.N. Bhardwaj aged about 48 years, resident of Staff Quarter No. 4, KVS Campus, 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur.

By Advocate: Mr. A.C. Upadhyaya

....Applicant

Versus

- 1 Kendriya Viidyalaya Sangathan, 18 Institutional Area, Shahid Jeet Singh Marg, New Delhi through Commissioner.
- 2 Dy. Commissioner (Personnel), Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahid Jeet Singh Marg, New Delhi.
- 3 Asstt. Commisioner, Kendriya Vidyalaya Sangathan, Reginal Office, 92 Gandhi Nagar, Bajaj Nagar, Jaipur.

By Advocate: Mr. V.S. Gurjar

....Respondents.

ORDER (ORAL)

The applicant has assailed the order dated 20.10.2006 (Annexure A/1) vide which he has been transferred from KVS, Regional Office, Jaipur to KVS, Regional Office,



Kolkatta. The applicant has alleged that this order has been issued with the malafide intention because the applicant has raised certain objections regarding certain irregularities committed in some purchases as per Annexures A/4, A/5 and A/6. The applicant submits that instead of praising his objections, the applicant had been made to transfer from Jaipur to Kolkatta and that too by an incompetent authority as the order of transfer has been issued by the Deputy Commissioner whereas the same is required to be issued by the Commissioner only.

2. In the reply to this, learned counsel for the respondents submits that the order of transfer has been issued by the competent authority. Deputy Commissioner has only conveyed the order and the order of transfer does not suffer lack of competence of the authority, who has approved the transfer order. However, I find that the transfer order has been issued by one Shri Rajvir Singh, Deputy Commissioner (Personnel) by his own name and it does not reflect that the same has been issued under the authority of Commissioner or by the competent authority. Rather the tenor of the order shows that the order is passed by the Deputy Commissioner itself.

3 Learned counsel for the respondents that applicant has not challenged the competency of the ^{submitted} ^{issuing authority} order. However, on going through the grounds of challenge to the impugned order, I find in Para 5(c) ~~that~~ the applicant has stated that the transfer order (Annexure A/1) has been passed by Respondent No. 2,

for

who has no authority to transfer the applicant and even no approval has been taken from respondent no. 1 who is the transferring authority. Though in their reply, the respondents had tried to improve the competency of the transfer order and submitted that it has been issued with the approval of the Commissioner but it is a settled law that subsequent improvement in ^{the pleadings to defer to} the order cannot be entertained.

3. I, therefore, quash^o the impugned order of transfer dated 20.10.2006 (Annexure A/1) and other grounds of malafides, as taken by the applicant, are not ~~proceeded~~ ^{discussed} since the impugned order of transfer has been quashed on technical grounds. However, it will be open for the respondents to pass any other order transferring the applicant in accordance with rules.

4. With these observations, the OA is disposed of with no order as to costs.


(KULDIP SINGH)
VICE CHAIRMAN

AH