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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

09.5.2007

OA 127/2007 with MA 105/2007

Mr. Amit Nath Mathur, counsel for applicant.
Mr. V.S. Gurjar, counsel for respondents.

Learned counsel for the applicant seeks
and is granted a few days time to file
rejoinder.

List on 15.5.2007.

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(J.P. SHUKLA)
MEMBER (A)

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15.05.2007

OA No. 496/2006

Mr. Amit Nath Mathur, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

Heard the learned counsel for the parties. The OA
is dismissed by the separate order, for the reasons
recorded therein.


(J.P. SHUKLA)
MEMBER (A)

AHQ

Rejoinder not
filed
in

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Jaipur, the 15th day of ~~May~~, 2007

ORIGINAL APPLICATION NO. 127/2007

CORAM:

HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER

Omwati Yadav wife of Shri Virendra Singh, aged about 51 years, resident of Vaishali Nagar, Jaipur, Rajasthan, presently working as PET KV No. 5).

By Advocate: Mr. Amit Nath Mathur

.....Applicant

Versus

1. Union of India through its Commissioner, KVS 18, Institutional Area, Shaheedjeet Singh Marg, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar, Jaipur.

By Advocate: Mr. V.S. Gurjar

.....Respondents

ORDER (ORAL)

Heard the learned counsel for the parties. The case of the applicant, in brief, is that she has been transferred by the competent

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authority from KVS, Jaipur to KVS, Nasirabad, vide transfer order dated 16.04.2007 (Annexure A/1) and accordingly, relieved on 18.04.2007 A/N and thus applicant is aggrieved of the impugned transfer order (Annexure A/1) and has challenged the same alongwith the earlier period of stay of the applicant at Nasirabad, which according to the applicant was more than 186 days but according to the respondents, it was only five months and nine days.

2. Learned counsel for the applicant argued that the applicant was earlier transferred from Jaipur to Nasirabad on 01.06.2005 and was relieved on 07.06.2005 where she stayed for more than six months and was again transferred to Jaipur vide order dated 08.12.2005 on her own request. He specifically quoted provisions of Article 71 of the Education Code, which deals with the transfer policy and submitted that there is no mention of period of less than six months in Education Code under Article 71 which the respondents have applied in the case of the applicant treating continuous service at Jaipur for the period she was working at Nasirabad. Learned counsel for the applicant contended that she had completed more than six months time at Nasirabad at earlier period and, therefore, her transfer vide Annexure A/1 is bad in the eyes of law as there are many others who have longer stay at Jaipur than the applicant.

3. Learned counsel for the applicant also brought to the notice of the Tribunal that the transfer of the applicant has been done only to adjust Shri Ram Karan Bhakar who has more than 22 years of stay at Jaipur. It was also argued that administrative order has been passed in the case of Shri Bhakar transferring him from Jaipur to Nasirabad and in pursuance to that, he has already been relieved and,

Sumit

therefore, legally his transfer order cannot be cancelled. It was also brought to the notice by the learned counsel for the applicant that as per new guidelines, which have been issued in supersession of Transfer Guidelines w.e.f. 19.01.2005 which have come into force w.e.f. 14.03.2006, there is no provision of stay out of a place of posting for less than six months period to be treated as continuance of service at a particular station and, therefore, the applicant is not having longest stay at Jaipur but still she has been transferred out of Jaipur.

4. Learned counsel for the respondents produced specific provisions under para 17.4 of the KVS Transfer Guidelines, which reads as under:-

"Commissioner will be competent to make such departure from the Transfer Guidelines, as be consider necessary, with the approval of the Chairman, KVS. Moreover such departures will not be for the cases covered under categories (i) and (ii) of Para 12.1."


On specific query by the Tribunal, to clarify what was in the mind of the respondents to apply provision of 17.4 of the KVS Transfer Guidelines while transferring the applicant, learned counsel for the respondents submitted that even if the earlier period of stay of the applicant at Nasirabad, which according to the respondents is less than six months, is not treated in continuance at Jaipur, to cover that eventuality, the competent authority had applied his mind and consider it fit to apply para 17.4 in the public interest to transfer the applicant.

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5. After hearing the learned counsel for the parties and going through the material placed on record, it is observed that no malafide is proved in this case on the part of the respondents while issuing the transfer order. Moreover, there is no violation of any statutory rules and the transfer order has been issued with the approval of the competent authority. As such, this Tribunal will not like to interfere in the transfer order of the applicant. To that extent, the case is dismissed.

As regards the prayer of the applicant for treating the posting at Jaipur w.e.f. 09.12.2005 when she was transferred from Nasirabad to Jaipur, the applicant is directed to make a representation in this regard within a period of one month from today, which the respondents shall decide the same within a period of two month, from the date of receipt of such representation.

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


(J.P. SHUKLA)
MEMBER (A)


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