

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 29th day of July, 2010

ORIGINAL APPLICATION 358 /2010

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HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

M.C. Sekra son of Shri Kedarmal Sekra aged about 48 years, resident of Quarter No. III/4, Staff Quarters, Kendriya Vidyalaya No. 2, Ajmer and holding the post of Librarian, Kendriya Vidyalaya No. 2, CRPF, GC II, Foysagar, Ajmer under transfer to Kendriya Vidyalaya, Beawar.

.....Applicant

(By Advocate : Mr. C.B. Sharma)

VERSUS

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
3. Union of India through its Secretary, Government of India, Department of Education, Ministry of Human Resource Development, Shastri Bhawan, New Delhi.
4. Principal Kendriya Vidyalaya No. 2, CRPF, GC-II, Foysagar, Ajmer.
5. Shri Suresh Kumar Joshi, Librarian, Kendriya Vidyalaya, Beawar and at present Kendriya Vidyalaya No. 2, CRPF, GC-II, Foysagar, Ajmer.

.....Respondents

(By Advocate:

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) That the respondents may be directed to allow posting to the applicant at Jaipur or at Phulera by quashing orders dated 20.07.2010 and 26.07.2010 (Annexure A/1 & A/2) with all consequential benefits.
- (ii) That the respondents be further directed to act as per guidelines and shifting of the applicant be kept pending from Ajmer till his request considered for Jaipur or Phulera

[Signature]

by quashing transfer order from Beawar to Ajmer in respect of respondent no. 5.

- (iii) Any other order/directions or relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- (iv) That the cost of this application may be awarded."

2. As can be seen from the prayer clause, the grievance of the applicant is regarding his transfer from Ajmer to Beawar vide impugned order dated 20.07.2010 (Annexure A/1), followed by relieving order dated 26.07.2010 (Annexure A/2). The case of the applicant is that his wife is serving under the State of Rajasthan and is presently posted at Jaipur whereas as per the transfer policy formulated by the respondents, the applicant was entitled for his posting at Jaipur or nearby Jaipur. It is also stated that the applicant has also made a request to the authorities for his posting at Jaipur or at Phulera but the respondents without considering the request of the applicant in the right perspective has transferred him to a distant place i.e. at Beawar, which is about 190 Kms. away from Jaipur. It is further pleaded that one Mrs. Vandana Nama, who belongs to Jodhpur has been retained at Ajmer after counseling whereas she could have been shifted to Beawar which is near to the Jodhpur instead of posting the applicant at Beawar.

3. I have heard the learned counsel for the applicant. From the material placed on record, it is evident that the applicant has also made a representation dated 14.07.2010 (Annexure A/5) to the Assistant Commissioner, KVS (RO), Jaipur, thereby highlighting his grievances. The said representation of the applicant has not been decided till date. It may be further noticed that Government of India,

Department of Personnel & Training vide its OM No. 28034/9/2009-Estt.(A) dated 30.09.2009 has issued detailed instructions regarding posting of husband & wife at the same station. At this stage, it will be useful to quote Para no. 4(vii) and Para No. 5 of the instructions, which is in the following terms:-

"4(vii) Where one spouse is employed under the Central Govt. and the other spouse is employed under the State Govt.: -

The spouse employed under the Central Govt. may apply to the competent authority and the competent authority may post the said officer to the station or if there is no post in that station to the State where the other spouse is posted."

"5. Complaints are sometimes received that even if posts are available in the station of posting of the spouse, the administrative authorities do not accommodate the employees citing administrative reasons. In all such cases, the cadre controlling authority should strive to post the employee at the station of the spouse and in case of inability to do so, specific reasons, therefore, may be communicated to the employee."

4. These guidelines issued by the Government of India are also required to be followed by the KVS as a matter of policy even though such guidelines may not have been adopted by the KVS so far. As can be seen from Para No. 5 of the guidelines, it is stipulated that cadre controlling authority should strive to post the employees at the station of the spouse and in case of inability to do so, specific reasons, therefore, may be communicated to the employees and the request of the employee cannot be rejected by the Administrative authority citing administrative reasons.

5. In view of what has been stated above, I am of the view that the representation of the applicant shall be considered by the appropriate

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authority keeping in view the spirit of the aforesaid guidelines even if they are not adopted by the KVS and shall explore the possibility of posting of the applicant either at Jaipur or at Phulera and decide the representation of the applicant by passing a reasoned and speaking order within a period of one month from today. Learned counsel for the applicant submits that the applicant has not given the charge of the post. Under these circumstances, the respondents may consider the desirability of retaining the applicant at Ajmer till his representation is not decided.

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


(M.L. CHAUHAN)
MEMBER (J)

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