

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 21.01.2014

OA No. 194/2012 with MA No. 250/2013

Mr. Surendra Singh, proxy counsel for
Mr. Man Singh Gupta, counsel for applicant.
Mr. Ashish Kumar, counsel for respondent nos. 1 & 2.
None present for respondent no. 3.

Heard learned counsel for the parties.

Order is reserved.




(G. GEORGE PARACKEN)
JUDICIAL MEMBER

Kumawat

24/01/2014

Order pronounced today in the open
Court by the Bench.


24/1/14

For C-0

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 194/2012

Date of Reserve: 21/01/2014

Date of pronouncement : 24/01/2014

CORAM

Hon'ble Shri G. George Paracken, Judicial Member.

Smt. Sunita Sharma W/o Jitendra Kumar Sharma, aged about 41 years, R/o 36/1, Staff Quarters, Rashtriya Military School, Ajmer.

.....Applicant

Mr. Surendra Singh, Proxy counsel for
Mr. M.S. Gupta, counsel for applicant.

VERSUS

1. Union of India, Through its Secretary, Ministry of Defense, New Delhi.
2. Director General of Military Training MT-15, General Staff, at Branch, Integrated H.Q. of MOD (Army), New Delhi, 110011.
3. Shri Vijay Kumar S. Bhamare, Assistant Master, Rashtriya Military School, Belgaum.

.....Respondents.

Mr. Ashish Kumar, counsel for respondents No. 1 & 2
None present for the respondent No 3.

ORDER

The applicant in this O.A. has challenged the impugned order dated 24/02/2012 by which she has been transferred from Ajmer to Belgaum.

2. The brief facts of the case are that the applicant was appointed as an Assistant Master Chemistry on 10/01/1994 at Rashtriya Military School (RMS for the), Ajmer. Her husband

Shri J.K. Sharma was also posted as Assistant Teacher in the same school and working with her. He has also been transferred to RMS, Belgaum by the same impugned order. However, her husband Shri J.K. Sharma had already filed O.A. 272/2010 before this Tribunal seeking a direction to promote him as Master Gazetted (Group-B).

3. The submission of the applicant is that her 16 years old son was a student of class 12th, her first daughter, a student of class 9th and her second daughter, a student of class 8th. Further according to her, Shri H.S. Kajagar, Assistant Master who was also transferred from Belgaum to Dholpur in place of Shri Peeyush Gautam who has been transferred from Dholpur to Ajmer made a representation (Annexure A/2) dated 05/03/2012 to the respondents to retain him Belgaum itself. Similarly, Shri Vijay Kumar S. Bhamare, Assistant Master who has been also transferred from Belgaum to Ajmer has also made a representation on 17/03/2012. Both those representations are still pending.

4. The respondents in their reply have submitted that it was as per existing transfer policy issued on 14/12/2005 that the applicant and others have been transferred to different schools. As per the said policy, on completion of six years at in

an RMS, the teachers are required to be transferred. The relevant part of the said policy reads as under:

- (a) Request transfer cases of teachers of Military Schools on compassionate grounds will be considered on merits and the maximum period of transfer to a request station will not be more than five years. On completion of stay of five years at the request station, the teacher will be transferred back to the same school or any other school or any other school where vacancy exists.
- (b) Transfer of teachers on completion of a period of six years of service in respective schools will be holistically reviewed by the Army Headquarters (MT-15) with an aim to provide equal opportunity to maximum teaching staff to serve all institutions and stations.
- (c) Transfer of teachers on promotion will continue to be followed as already in vogue."

5. They have further submitted that applicant was appointed in the present school on 07/01/1994 and she has already completed more than 20 years. So far as O.A. No. 272/2010 filed by her husband Shri Jitendra Kumar Sharma is concerned, he has since been promoted to the post of Master Gazetted and posted in RMS, Dholpur and the said O.A. has become infructuous. Further according to them, Shri J.K. Sharma has submitted an application to the respondent No. 2 for mutual transfer to RMS, Ajmer with Shri M.P. Singh who is currently posted as Master Gazetted Maths in RMS, Ajmer. They have also stated that Shri M.P. Singh has also given his consent for his mutual transfer and thereafter his case has

duly forwarded by the Principal of Rashtriya Military School, Dholpur for consideration.

6. I have heard the learned counsel for the parties. It is seen that both the applicant and her husband Shri J.K. Sharma were working as Assistant Master in RMS, Ajmer. Both of them have been transferred to RMS, Belgaum by impugned order dated 24/02/2012. The said transfer was according to the transfer guidelines according to which a teacher working for more than 6 years in a particular school has to be transferred to another school. Therefore, the order of respondents transferring them cannot be faulted. As far as the applicant's husband is concerned, he had also challenged the aforesaid order of transfer dated 24/02/2012 transferring him also from Ajmer to Belgaum. At that time the earlier O.A. No. 272/2010 for his promotion to the post of Master Gazetted was pending. Meanwhile, the respondents have promoted him to the aforesaid post and posted to RMS, Dholpur. His request for mutual transfer back to RMS, Ajmer with Shri M.P. Singh, Master Gazetted (Maths) is nothing today with transfer of the applicant which has been made as per the policy.

7. It is a well settled law that transfer is an incident of service and same cannot be interfered unless there is violation of any statutory rules or it was made for any malafide reason.

Applicant has not raised any such plea in this O.A. Therefore, I do not find any merit in this O.A. and it is dismissed accordingly. However, if the applicant's husband makes a representation to respondents to post him also at RMS, Belgaum, so that the husband and wife can work at same place, they shall consider the same and take appropriate decision under intimation to him.

8. There shall be no order as to costs.


(G. George Paracken)
Member (J)

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(G. George Paracken)
Member (J)