

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/01018/2014 **Date of decision- 13.11.2014**

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

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Kela Pati wife of Rajinder Singh Resident of Jawahar Navodya Vidyalaya,
Khunga Kothi, Jind, Haryana.

...APPLICANT

BY ADVOCATE : Sh. Sandeep Majithia

VERSUS

1. Union of India, through it Secretary, Ministry of Human Resource Development, Department of School Education and Literacy, New Delhi.
2. Commissioner, Navodya Vidyalaya Simiti, B-15, Institutional Area, Sector 62, Noida, District Gautam Budh Nagar, Uttar Pradesh.
3. Deputy Commissioner, Jaipur Region, Navodya Vidyalaya Simiti, 18, Sangram Colony, Mahavir Marg "C" Scheme Jaipur, Rajasthan.

...RESPONDENTS

BY ADVOCATE: Sh. D.R.Sharma

ORDER (ORAL)

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

1. The present O.A is directed against the order dated 07.11.2014 whereby the applicant has been transferred from Jind, Haryana to Hamirpur, Uttar Pradesh, a place out of region.
2. Sh. Sandeep Majithia, learned counsel for the applicant submitted that vide impugned transfer order, the applicant has been transferred out of region which is against the 'Navodaya Vidyalaya Simiti's own transfer guidelines, under which they can not transfer a person out of region without his/her consent. He also submitted that husband of the applicant is suffering from cancer and taking treatment from the Rajiv Gandhi Cancer Institute and Research Centre, New Delhi. To this effect, he draws our attention to the medical description at Annexure A-3. He also submitted that the transfer policy dated 04.04.2012 gives right to an employee to seek transfer on medical ground, cases of self, spouse and dependent children. He also submitted that though she has not given any written request for the same, but, in the O.A he has made positive averment that for cancellation of the impugned transfer order, she had also met the higher officials on number of occasions and even she also requested to transfer her to Delhi, where her husband is undergoing treatment, so that he can get better treatment.
3. Issue notice to the respondents.
4. On our asking, Sh. D.R. Sharma, Advocate appears and accepts notice on behalf of the respondents.

5. We have considered the submission made by counsel for the applicant and perused the material available on record.
 6. Admittedly, there are number of authoritative judicial pronouncements that normally in transfer matters the court should not interfere except in exceptional situations. In the present case, the applicant remained at Jind for more than 20 years and now she has been transferred from one region to another region i.e. 700 km from the present place of posting. A submission has been made by the counsel for the applicant that transferring the applicant out of region is bad in law in view of the mandate of the transfer guidelines.
 7. There is another reason that compelled us to take up this matter as applicant's husband is suffering from cancer. As per the respondents transfer guidelines, if the spouse is suffering from certain type of diseases, then he/she can make request to the competent authority for transferring him/her to a nearby station so as to get better treatment there.
 8. For this reason, we direct the applicant to make a written representation to the competent authority by making request in terms of the transfer guidelines within a period of three days from the date of receipt of certified copy of the order. If the applicant submits his request as indicated above, then respondent no. 2 who is the competent authority, as submitted by Sh. D.R. Sharma, learned counsel for the respondents, is directed to take a view on her representation by passing a speaking order, supported with reasons as per law and rules within a period of two weeks, thereafter. Orders so passed be duly communicated to the applicant.
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9. As an interim measure, till the respondents take a view in the matter, the operation of the impugned order qua the applicant shall remain stayed. If the applicant does not submit representation as indicated above, then the respondents are at liberty to implement the impugned order.

10. Needless to say that we have not expressed any view on the merits of the case.

11. With the observations and directions as above, this O.A. stands disposed of, with no orders as to costs.

12. **Dasti.**

Uday Kumar Varma
(UDAY KUMAR VARMA)
MEMBER (A)

Sanjeev Kaushik
(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 13.11.2014.

'jk'