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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/01008/2014

Date of Decision : 13-3-2015
Reserved on: 25.02.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Anu Sood, aged 46 years W/o Sh. Rajneesh Sood, working as Socially Useful Productive Work Teacher (SUPW Teacher) at Jawahar Navodaya Vidyalaya, Sector 25, Chandigarh.

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Applicant

Versus

1. Navodaya Vidyalaya Samiti (Ministry of Human Resource Development, Department of School Education & Literacy) (Government of India), B-15, Institutional Area, Sector 62, Noida through its Commissioner.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti, (Ministry of Human Resource Development, Department of School Education & Literacy) (Government of India), Regional Office, Bay No.26-27, Sector 31-A, Chandigarh.
3. Principal, Jawahar Navodaya Vidyalaya, Sector 25, Chandigarh.
4. Shri V.K. Bhatt, SUPW Teacher, Jawahar Navodaya Vidyalaya, Tehri Garhwal.

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Respondents

Present: Mr. R.K. Sharma, counsel for the applicant
Mr. D.R. Sharma, counsel for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:- 18

"8 (i) Quash Office Order No.2-3/2014-NVS(Estt.)/1428 dated November 7th 2014 (Annexure A-1) passed by respondent no.1, qua respondent no.4, whereby he has been transferred from Jawahar Navodaya Vidyalaya, Tehri Garhwal to Jawahar Navodaya Vidyalaya, Chandigarh against the transfer policy as his first choice for transfer was Haridwar and Second Sirmaur and Chandigarh was third choice.

(ii) Quash Office Order No.2-3/2014-NVS(Estt.)/1429 dated November 7th 2014 (Annexure A-1), passed by respondent no.1, qua applicant, whereby she has been transferred from Jawahar Navodaya Vidyalaya, Chandigarh to Jawahar Navodaya Vidyalaya, Sonepat (Haryana) as she has been displaced to accommodate respondent no.4, in violation of transfer policy framed by the respondents themselves.

(iii) Issue directions to the respondents to allow the applicant to continue at her present place of posting without interruption."

2. The background of the matter is that the applicant was appointed as Socially Useful Productive Work Teacher (SUPW Teacher) in the year 1989 and she joined at JNV, Samrala, District Ludhiana on 30.06.1989. She was subsequently transferred to JNV Chandigarh on 18.07.1991 and has been working at Chandigarh since then.

3. Averment has been made in the OA that the applicant has a daughter aged 17 years who was earlier studying at JNV, Chandigarh. While in Class XI she suffered from Obsessive Compulsive Disorder and is under treatment at PGI Chandigarh since 09.10.2013. She has been admitted in Humanities Stream in DAV Model School, Sector 15, Chandigarh, for the session 2014-15. It is claimed in the OA that the applicant was transferred to JNV Sonepat, Haryana vide order dated November 07th, 2014 (Annexure A-2) to

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accommodate one Sh. V.K. Bhat of NJV, Tehri Garwal (UP) at JNV Chandigarh. Her transfer to JNV Sonepat is violative of the transfer policy issued vide notification dated 04.04.2012. The second choice of respondent no.4 who was to be shifted from Tehri Garhwal was Sirmaur and Smt. Jyoti Archana is working as SUPW Teacher at Sirmaur since 30.06.1989 and she had longer stay than the applicant. If the respondents desire to accommodate respondent no.4 then he could have been transferred to JNV Sirmaur. It is also claimed that the applicant belongs to the Regional Cadre and she has been transferred out of the Region. Moreover, the transfer had been ordered during the mid session of the studies of the daughter of the applicant. The applicant had represented to the authorities bringing the position regarding the medical condition of her daughter to the notice of the Dy. Commissioner, JNV Regional Office Chandigarh that she may not be shifted out at least for one year from JNV Chandigarh, so that her daughter could continue treatment from PGI Chandigarh and also continue her studies. Inspite of this, she had been transferred to JNV, Sonepat. Hence this OA.

4. In the written statement filed on behalf of respondents no.1 to 3, it has been stated that respondent no.4 had been transferred from Tehri Garhwal to Chandigarh and applicant has been transferred from Chandigarh to Sonepat as per transfer policy issued by Navodaya Vidyalaya Samiti. Navodaya Vidyalaya Samiti framed transfer policy and issued the same vide notification dated 04.04.2012 (Annexure A-4). Respondent no.4 had submitted three choice

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stations i.e. Haridwar, Sirmaur and Chandigarh. Since no vacancy was available at Haridwar and Sirmaur, therefore, respondent no.4 was posted to Chandigarh. The applicant is working in her home district of Chandigarh since 18.07.1991 and, therefore she has been transferred to Sonepat in the interest of the Samiti. The applicant was appointed as SUPW Teacher in the year 1989 and during 26 years of service she has been transferred only once that is from Samrala to Chandigarh and she is in Chandigarh since 18.07.1991. Hence, the present OA deserves to be dismissed being devoid of merit.

5. It is further stated that transfer policy, 2012 of Nodalaya Samiti envisages that employees working in hard, very hard and NER region will be transferred to the place of their choice on completion of their mandatory tenure of 2 years (for very hard station)/3 years (for hard and NER stations) as the case may be. Accordingly, the transfer order of employees working in hard and very hard/NER stations were effected vide Samiti's order No. 2-3/2014-NVS (Estt)/1428, dated 7th November, 2014. Shri V.K. Bhatt SUPW Teacher, who had completed mandatory tenure at JNV Tehri Garhwal (Uttarakhand) had requested for transfer with his choice stations as JNV, Haridwar/JNV Sirmaur/JNV Chandigarh. There was no vacancy at JNV Haridwar and JNV Sirmaur. Hence the respondent no.4 was posted at JNV Chandigarh. Records revealed that Ms. Anu Sood, SUPW Teacher has been working since 1991 at JNV Chandigarh and that to in her home district. As per the provision of transfer

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policy of the Samiti no one is to be posted in her/her home district except the non-teaching staff who are recruited locally by the Vidyalaya itself. Since Ms. Anu Sood was working at her home district in contravention to the Samiti's Transfer Policy/Guidelines, she was displaced by transferring her to JNV, Sonepat (Haryana) in order to adjust Shri V.K. Bhatt of JNV, Tehri Garhwal (Uttarakhand) who had worked at hard tenure station. This was in accordance with the Samiti's commitment to provide choice place to the employees who complete mandatory tenure at hard/difficult stations. If teachers like the applicant are allowed to continue at the same place then other teachers who have been serving at hard/difficult stations will never get a chance to come to their choice place / station.

6. Arguments advanced by the learned counsel for the parties were heard, when learned counsel for the applicant pressed that the transfer of the applicant has been ordered during mid session while the daughter of the applicant was studying in +2 and her studies would be adversely affected. Learned counsel also stated that as per DOPT order No.42011/3/2014-Estt.(Res.), dated 06.06.2014 (Annexure A-8) it has been directed that a Government servant who is a care giver of the disabled child may be exempted from routine exercises of transfer / rotational transfer subject to administrative constraints. He stated that the daughter of the applicant was suffering from mental illness and hence the applicant should be exempted from transfer.

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7. Learned counsel for the respondents reiterated the content of the written statement.

8. We have given our careful consideration to the matter. So far as the issue of the applicant's daughter suffering from mental illness, it is seen that the Nehru Hospital of the PGI has recorded in the Medical Certificate that the patient Garima Sood D/o Rajneesh Sood is suffering from nervous illness and has been attending the hospital as out door patient since 25.9.2013. This medical certificate cannot be considered to be disability certificate regarding "Mental illness" as required under the Persons with Disabilities Act, 1995 and hence the applicant cannot rely upon OM dated 06.06.2014 to resist her transfer. The transfer has been ordered on account of administrative reasons as the applicant is posted in her home district and she has been serving there for the last 23 years. Other persons can also seek to be posted at Chandigarh and such a request has indeed been made by respondent No.4 who has been ordered to be transferred to Chandigarh as per order dated 07.11.2014 (Annexure A-1).

9. Since the applicant has been working at Chandigarh which is her home district since 1991, her transfer appears to be in accordance with the transfer policy guidelines. However, the transfer during mid session would indeed cause difficulty to the applicant. Since the session will be completed by mid April, 2015, the respondents are directed not to relieve the applicant from

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JNV Chandigarh till 15.04.2015, keeping in view the fact that the applicant is continuing at JNV Chandigarh as per order dated 11.11.2014, when her transfer to Sonepat was stayed through order of this Tribunal.

10. The OA disposed of with the directions as above.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 13. 3. 2015

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