

OA. 060/00717/2014

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**OA. 060/00717/2014
(Reserved on 30.09.2014)**

Chandigarh, this the **17th** day of October, 2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J)**

Smt. Satinder Pal Kaur, Physical Education Teacher, Navodaya Vidyalaya, Village Farour, Tehsil Khamano, District Fatehgarh Sahib

...APPLICANT

BY ADVOCATE: **MR. R.S. BAINS**

VERSUS

1. The Commissioner, Jawahar Navodaya Vidyalaya Samiti, B-15, Institutional Area, Gautam Buddh Nagar, Sector 62, Noida (UP).
2. The Deputy Commissioner, Navodaya Vidyalaya Samiti (Regional Office), Chandigarh.
3. Rajan Kumar, Principal, Jawahar Navodaya Vidyalaya, Faraur, Tehsil Khamano, Distt. Fateh Garh Sahib.

...RESPONDENTS

BY ADVOCATE: **MR. D.R. SHARMA FOR RESPDTS.1&2.**

ORDER

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

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

18

OA. 060/00717/2014

“(i) Issuance of an appropriate direction or order for quashing the impugned order/letter Annexure P-6 vide which the applicant is transferred to Mansa without giving a chance to be heard as this transfer is made as a punishment to the applicant.

(ii) Issuance of an appropriate direction or order for direction to the respondents and to take necessary action against the respondent No. 3 Sh. Rajan Kumar, Principal on whom serious allegations are raised by the students and the teachers.”

2. The applicant in this OA is aggrieved by the orders of her transfer from JNV Farour, District Fatehgarh Sahib (Punjab) to JNV, Phaphre Bhai Ke, Distt. Mansa (Punjab) despite the alleged complaint against the Principal of JNV District Fategarh Sahib (Punjab). The applicant claims to have been made a scapegoat in the matter. It is stated that the students of Navodaya Vidyalaya, Farour, had made a complaint against the Principal that he was in the habit of harassing the students. When the grievances of the students were not addressed, on 5.10.2013 after the morning assembly, students of classes +1 and +2 left the school and went to the office of Tehsildar, Fatehgarh Sahib to protest against the Principal. The Naib Tehsildar visited the school premises and recorded the statements of the students on the orders of the Sub Divisional Magistrate. A report submitted by the Naib Tehsildar has been annexed (Annexure P-3). It is alleged that the Principal, JNV then wrote a confidential letter to the Deputy Commissioner, Navodaya Vidyalaya



Samiti in which he alleged conspiracy on the part of the teachers such as the applicant Mrs. Satinder Kaur and one Sh. Sanjay Kumar & others. The Principal, being an influential person, in connivance with officials of the Navodaya Vidyalaya Samiti, made the applicant a scapegoat in this incident and hence she had been transferred to JNV Mansa. The applicant is a widow having two children, there was no complaint against her and the transfer was motivated by mala fide and hence deserved to be quashed. Hence this OA.

3. In the written statement filed on behalf of the respondents No. 1 & 2, it has been stated that the Principal, Jawahar Navodaya Vidyalaya, Farour has tried to maintain discipline and improve the overall image of the JNV. The applicant who belongs to District Fatehgarh Sahib itself and was enjoying certain privileges tried to place hurdles in the smooth working of the Vidyalaya and instigated the students of Classes XI & XII (Humanities) and XI (Science) to resort to strike. It was found on inquiry conducted by the officers of the NVS Regional Office that 75 students of Classes XI & XII (Humanities) out of total 500 students went on strike on 05.10.2013 and it appeared that these students were involved in bullying, indiscipline and harassing junior students. Even the parents of the striking students had supported the school administration in this

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OA. 060/00717/2014

matter. Moreover, the complaints against the Principal were found false and baseless. Taking a serious view of the matter, respondent no. 2 attached Sh. Sohan Singh, Chowkidar to the Regional Office and ultimately transferred him to JNV Hoshiarpur. The cases for transfer on administrative grounds of some other staff members were taken up with NVS Headquarters vide letter dated 01.08.2014 (Annexure R-3) and consequently, the applicant was transferred vide order dated 13.8.2014 (Annexure P-6). The applicant had also been relieved from JNV Farour, District Fatehgarh Sahib vide order dated 13.8.2014. There was no mala fide in the transfer or violation of any policy or instructions.

4. It has further been stated that although the Naib Tehsildar, Fatehgarh Sahib visited the JNV Farour, she did not meet the Principal and only heard the students and submitted her report. However, since allegations of sexual harassment had been made against the Principal, JNV, these were duly inquired into by the Gender Harassment Committee of the Regional Office and the allegations were found to be baseless as per the annexed report (Annexure R-4). The matter pertaining to unrest amongst the students of Class XI and XII of JNV Farour was inquired into by a committee constituted by the Regional Office. The Committee in its report (Annexure P-2) concluded that there were some staff

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members who instigated the students with some ulterior motive and therefore, the Committee recommended the transfer of the applicant and some other staff members. The applicant had annexed copies of the confidential documents which she had not obtained through RTI and this showed that she has some nexus with the Naib Tehsildar and had tried to mislead the Tribunal by projecting that Principal was at fault while the inquiry report showed that the Principal was in fact not at fault. The Principal had only tried to bring the Vidyalaya on track and academic atmosphere of the Vidyalaya had improved during his tenure there.

5. It has further been stated that the transfer of the applicant had been ordered on account of administrative exigency and there was no violation of the statutory rules/policy in this regard. The following judgements of the Apex Court have been cited to support the contention that the transfer is an incidence of service, ~~The~~ employer has a right to transfer an employee keeping in view the policy guidelines and the exigencies of service and the same should normally not be interfered by the Courts/Tribunals:-

- (i) Union of India & Ors. Vs. S.L. Abbas (1993) 4 SCC 357
- (ii) State of Madhya Pradesh and another Vs. S.S. Kourav and Ors. reported in AIR 1995 SC 1056
- (iii) Laxmi Narain Mehar Vs. UOI and Ors., 1997(2) SLR 38

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(iv) State of U.P. and Ors. Vs. Gobardhan Lal (2004) 11 SCC 402.

6. Reply had also been filed on behalf of respondent No. 3, Sh. Rajan Kumar, Principal Jawahar Navodaya Vidyalaya, Faraur, Tehsil Khamano, Distt. Fateh Garh Sahib wherein he has narrated the background regarding the transfer of the applicant from JNV Faraur and has also denied the allegations made against him by the applicant.

7. No rejoinder has been filed on behalf of the applicant.

8. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant reiterated the facts and grounds taken in the OA and stressed that the transfer of the applicant from Faraur to Mansa was vitiated by mala fides. He stated that the annexed inquiry reports and record clearly showed that the Principal JNV Faraur was responsible for mismanagement of the school and it was he who should have been transferred rather than the applicant who had been victimized and transferred to JNV Mansa.

9. Learned counsel for the respondents stated that the applicant had already spent more than eleven years at JNV Faraur. No rejoinder had been filed on her behalf and hence, the stand taken by the respondents in the matter had to be accepted. Learned counsel further stated that as a fall-out of the incident that took place on 05.10.2013 and

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the findings of the Inquiry Committee, some other staff members had also been transferred. In this regard, he mentioned names of Sh. Sohan Singh, Chowkidar. He also stated that the case of transfer of Principal from JNV Faraur was also under consideration of the authorities at NVS Headquarters. Learned counsel asserted that in order to ensure that the JNV Faraur work smoothly, it was necessary to move the applicant out from the school as it had been concluded in the course of the inquiry that rather than behaving in a responsible manner, the applicant had been actually instigating the students to go on strikes against the Principal of the institution and had been making wild allegations.

10. We have given our thoughtful consideration to the matter. From the material on record, it is evident that the state of affairs at JNV Faraur was not satisfactory and the authorities of the NVS have taken some administrative decisions in the interest of the smooth functioning of the institution. Since the preliminary inquiry conducted by the team deputed from the Regional Office showed that the applicant was herself instigating the students towards indiscipline, there was definitely need to shift the applicant out of the Institution. Hence, we conclude that the transfer of the applicant is in the interest of smooth management of JNV Faraur and it has been ordered on administrative grounds and judicial

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OA. 060/00717/2014

interference in the matter is not called for. Hence this OA is rejected. No costs.

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(RAJWANT SANDHU)
MEMBER(A)

B. A. Agrawal
(DR.BRAHM A.AGRAWAL)
MEMBER(J)

Dated: October 17, 2014.

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