

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**O.A No.1585/2017**

**Reserved On:09.05.2017  
Pronounced On:12.05.2017**

**Hon'ble Mr. V. Ajay Kumar, Member (J)  
Hon'ble Mr. P.K. Basu, Member (A)**

Shri Sushil Kumar Shukla  
39 years, TGT,  
Vinayak Bhawan, A-7/31-32  
Sector-17, Rohini,  
Delhi-110 085. ....Applicant

(By Advocate: Mr. Rahul Kumar Verma)

VERSUS

1. Union of India,  
through  
Secretary (School Education & Literacy)  
Department of School Education  
Ministry of Human Resources & Development  
Shastri Bhawan, New Delhi  
Government of India.
2. Kendriya Vidyalaya Sangathan  
Through  
Commissioner  
Kendriya Vidyalaya Sangathan HQ
3. Kendriya Vidyalaya Sangathan  
Through  
Sardar Singh Chauhan  
Additional Commissioner (Establishment 2 & 3)  
Kendriya Vidyalaya Sangathan HQ  
  
Both at  
18, Institutional Area,  
Shahid Jit Singh Marg,  
New Delhi-110016.
4. The Principal  
Kendriya Vidyalaya  
TP Block, Pitampura,  
Delhi-110 034. ....Respondents

**ORDER**

**By Hon'ble Mr. P.K. Basu, Member (A)**

Heard the learned counsel for the applicant.

2. The applicant had been transferred from Kendriya Vidyalaya (KV) Pitampura, New Delhi to K.V. IOC, Guwahati vide transfer order dated 24.06.2016, due to his non completion of tenure in any KV of hard/very hard station as per transfer guidelines and as he was below 40 years.

3. The applicant thereafter filed representations dated 25.06.2016 and 28.06.2016 for cancellation of his transfer and for modification of his place of posting from KV, IOC, Guwahati to KV, AFS, Chandigarh.

4. The applicant had filed OA No.2205/2016 before this Tribunal and vide order dated 23.11.2016, the OA was disposed of with the following order:-

“3. At the very outset, the main grievance of the learned counsel, at this stage, is that, although, the applicant has filed representations dated 25.06.2016 (Annexure A/13 and 28.06.2016 (Annexure A/14), for redressal of his grievances, but the same were not decided by the competent authority.

4. After hearing the learned counsel for the parties, going through the records with their valuable help, the O.A is hereby disposed of with a direction to the Commissioner, Kendriya Vidyalaya Sangathan (respondent no. 2) to sympathetically consider and decide the representations (Annexure A/13 and A/14), already filed by the applicant, by passing a speaking order, within a period of one month, from the date of receipt of a certified copy of this order, in accordance with law.

5. Needless to mention, if the applicant still remains aggrieved by the order to be passed by the competent authority, then, he would be at liberty to challenge its validity, by filing an independent O.A, in accordance with law”.

5. The respondents vide the above order informed the applicant that his request could not be acceded to owing to non-existence of provisions for exemption for transfer under para 5(b) of the Transfer Guidelines when tenure has not been completed by a such teacher in any KV of Hard/Very Hard/NE Stations & owing to non-availability of vacancy at Kendriya Vidyalaya AFS Chandinagar.

6. The applicant's wife is inflicted with a rare disease which has resulted in paralysis in both her right limbs for the past several years. When the matter came before us in OA No.2205/2016 (supra), keeping in view the serious condition of the applicant's wife, we had directed the respondents to sympathetically consider and decide the representations of the applicant. In consonance thereof, order dated 03.01.2017 has been issued rejecting the applicant's prayer. The rejection is on the following grounds:-

- (i) There is no provision for exemption for transfer under para 5(b) of transfer guidelines when the teacher has not completed hard/very hard station posting; and
- (ii) There is no vacancy at KV, AFS, Chandinagar.

7. The first ground is clearly wrong as para 12 of the guidelines empowers the Commissioner to grant exemption under various clauses and provisions. Moreover, as the applicant has pointed out, in at least cases of two other employees Ms. Harleen Kaur and Mr. Jeetendra Kumar Meena clause 12 has been invoked to cancel the transfer orders on medical grounds.

8. Though, in normal circumstances, when a transfer order is issued and the concerned employee is relieved, the same would not be interfered as an interim measure without hearing the other side, but the peculiar circumstances of this case and the seriousness of the medical problem of the wife of the applicant, and to avoid any untoward incident we pass the following interim order.

9. In view of above, and in view of the *prima facie* case made out, issue notice to the respondents returnable by 04.07.2017. In the meanwhile, the order dated 03.01.2017 as also the transfer order dated 24.06.2016 and the relieving order dated 27.06.2016 are suspended and the respondents are directed to post the applicant in any other KV in Delhi forthwith so that he is able to provide treatment for his wife.

**(P.K. BASU)**  
**MEMBER (A)**

**(V. AJAY KUMAR)**  
**MEMBER (J)**

Rakesh