

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

O.A No.964/2017

**Reserved On:22.03.2017
Pronounced On:24.03.2017**

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

Babita, Librarian, Group 'B'
(Aged about 43 years)
W/o Shri Krishan Kumar
R/o Quarter No.21, Jawahar Navodaya Vidyalaya,
Mungeshpur School Complex,
New Delhi-110039.Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Navodaya Vidyalaya Samiti
Through its Commissioner,
B-15, Sector 62,
Noida, Uttar Pradesh.

2. Jawahar Navodaya Vidyalaya
Through its Principal,
Mungeshpur School Complex,
New Delhi-110073.Respondents

ORDER

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

The applicant is a Librarian with the Navodaya Vidyalaya Samiti (NVS). She is posted at Jawahar Navodaya Vidyalaya (JNV), Mungeshpur. Her husband was also posted as TGT (Social Studies) at the same school as the applicant. They were both transferred vide order dated 11.08.2016 to JNV, Mukstar (Punjab) on the ground of spouses being posted together.

2. She was also relieved by order dated 26.08.2016 to join at new place of posting. The applicant approached this Tribunal in OA No.3513/2016 for stay of her transfer. The Tribunal vide order dated 09.11.2016 directed the Commissioner, NVS to sympathetically consider and decide the applicant's representation by passing a speaking order.

3. The respondents have passed a speaking order dated 11.01.2017. In this order, the respondents have stated as under:-

"that the husband of the applicant Shri Krishan Kumar, TGT (Social Studies) was transferred on administrative ground from JNV, Mungeshpur (Delhi) to JNV, Muktsar (Punjab) as his continuance in the JNV, Mugeshpur (Delhi) was not conductive for the Vidyalaya Administration. The performance of Shri Krishan Kumar was not satisfactory and students were complaining against him. He was taking his duty very lightly. He does not explain the topic to the students but only reads the book before the students. He had served there for 21 years and did not keep his performance up to the satisfaction of the students. Therefore, he was transferred to JNV, Muktsar (Punjab). Since his wife was working with him in the same Vidyalaya as Librarian, it was decided to transfer her along with Shri Krishan Kumar to JNV, Muktsar (Punjab) so that husband and wife could be unified there.

With regard to the contention of the applicant that her son is studying in the JNV, Mungeshpur (Delhi), it is to mention here that instructions were issued to allow her to continue till the end of the current academic session i.e. 31st March, 2017 if she desired so. The rest of her contentions such as gynaecological problem being faced by her, study of the daughter etc. are not relevant to withhold her transfer. The transfer policy envisages that public interest is the uppermost consideration while effecting the transfer of employees. The individual problems of the employees are secondary in nature. Transfer Policy stipulates that no one can have the right to be posted at a place of their choice. Due consideration was given to the applicant's problems viz-a-viz the requirement of the organization. Accordingly, she was transferred to JNV, Muktsar (Punjab) along with her husband".

4. In view of the above reason, the order states that it is administratively not feasible to cancel her transfer.

5. This OA has been filed challenging this order dated 11.01.2017, seeking the following reliefs:-

“(i) To quash and set aside the transfer order dated 11.08.2016 and consequential orders/letters.

(ii) To quash and set aside the order dated 11.01.2017 and direct the respondents to allow the applicant to complete her tenure of 10 years.

(iii) Such other order/orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant”.

6. The learned counsel for the applicant also placed before us photocopy of order sheet dated 09.03.2017 in OA No.60/1068/2016 which was filed by one Shri Pawan Kumar Vs. Navodya Vidyalaya Sangathan and the order of the Tribunal is as follows:-

“1. Learned counsel for the respondents seeks permission to file written statement during the course of the day in the Registry permitted.

2. Copy, therefore, has been handed over to the counsel opposite who seeks and is granted two weeks time to file rejoinder in the matter.

3. MA No.060.00323/2017 has been filed by the applicant with a prayer to grant the status quo with regard to the posting of the applicant.

4. Learned counsel for the respondents submitted that they had already informed this court that they will not implement the transfer order qua applicant during the pendency of the O.A. therefore, there is no need to pass the order in this MA and same may be disposed of.

5. Considering the statement made by the learned counsel for the respondents, MA No.060/00323/2017 is disposed of.

6. List the O.A. on 24.03.2017”.

7. It is contended by the learned counsel for the applicant that Shri Pawan Kumar was holding the post of Librarian at JNV, Muktsar (Punjab) and he had been transferred from that post. He approached the Tribunal at Chandigarh in the above OA and, as would be apparent from the order of this Tribunal, his transfer has been stayed. It is stated that there is only one post of Librarian in JNV, Muktsar (Punjab) and, therefore, the transfer order of the applicant in this case cannot be implemented as there is no second post of Librarian at Muktsar.

8. Heard the learned counsel and perused the pleadings.

9. From the facts of the case stated in the speaking order dated 11.01.2017, it would be clear that the respondents accommodated both husband and wife at JNV, Mungeshpur, Delhi. However, the husband of the applicant did not perform well and the students were dissatisfied. As a result, he was transferred out of JNV, Mungeshpur, Delhi and posted to JNV, Muktsar (Punjab). In the light of the transfer policy that as far as practicable, husband and wife should be posted together, the applicant was transferred also to JNV, Muktsar (Punjab). It is also seen that, as the applicant had referred to her son studying in Class-XII and taking coaching in Delhi, the respondents had

sympathetically allowed her to continue till the end of the current academic session, i.e., 31.03.2017, if she so desires.

10. We are satisfied that the respondents have treated this employee with due sympathy and consideration and tried to accommodate her request to the extent possible. As far as the interim order in OA No.60/1068/2016 passed by the Chandigarh Bench of this Tribunal is concerned, no particulars are mentioned in the order regarding the facts of Pawan Kumar's case which could have a bearing in this matter. In any case, it is for the respondents to ensure that their transfer orders are implemented and there are posts available and we need not enter into this at all.

11. In view of the above, we find no merit in this OA and the same is dismissed. No costs.

(P.K. BASU)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh