

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00851/2017

Monday, this the 12th day of February, 2018

CORAM:

**HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

Roopma Anand,
W/o. Anand Kumar,
Trained Graduate Teacher (English),
Kendriya Vidyalaya,
Pallipuram, Thiruvananthapuram - 69531.

... Applicant

(By Advocate Mr.C.S.G.Nair)

V e r s u s

1. Commissioner, Kendriya Vidyalaya Sangathan,
18 Institutional area, Shaheed Jeet Singh Marg,
New Delhi - 110 016.
2. Assistant Commissioner (Estt.),
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi - 110 016.
3. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Ernakulam, Cochin - 682 020.
4. The Principal,
Kendriya Vidyalaya, Pallipuram,
Thiruvananthapuram - 695 316.

... Respondents

(By Advocate Mr.K.I.Mayankutty Mather)

This application having been heard on 6th February 2018 the Tribunal on 12th February 2018 delivered the following :

ORDER

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

Applicant is a Trained Graduate Teacher (TGT) (English) in the Kendriya Vidyalaya (for short, K.V.), Pallipuram, Thiruvananthapuram District. She is a native of Chandigarh and is a member of Scheduled Caste. Her husband Shri.Anand Kumar is working in the Custom House, Cochin in a non-transferable post. Their son aged 9 years is studying in the Navy Children School at Cochin. Under these circumstances she submitted several representations for transfer to Ernakulam relying on Annexure A-6 to Annexure A-8 O.Ms issued by the Department of Personnel and Training (DoPT), Government of India regarding posting of husband and wife at the same station. According to her some other TGTs who had not even submitted application for choice place of postings has been posted to a vacancy in Ernakulam - despite their high displacement count- apparently due to external influence. Applicant points out that there are 3 TGTs working in Ernakulam for the last 15 years or more without any transfer. She contends that she is entitled to be transferred to Ernakulam on the strength of the aforementioned O.Ms.

2. Pointing out that there are short term vacancies available in K.Vs of Ernakulam and Cochin areas applicant had sought an interim order directing the respondents to post the applicant at Cochin in those vacancies. However, in the detailed order dated 14.12.2017 we declined to grant the interim order.

3. Respondents resisted the O.A mainly on the ground that there is no vacancy of TGT (English) available in Ernakulam. They state that one Smt.Ajitha who has been given posting at Ernakulam on the basis of an order from the High Court of Kerala. They pointed out that the applicant was posted at KV, Port Trust on two occasions from 11.9.2015 to 23.3.2016 on deputation and at KV, Ernakulam from 14.12.2016 to 8.6.2017 and again from 23.6.2017 to 25.9.2017. Respondents state that from 2015 to 2017 she has availed of leave of different kinds for nearly 693 days and the total number of days she has worked at KV, Pallipuram from 8.8.2015 to 13.12.2016 is only 156 days.

4. A rejoinder and additional reply statement were filed by the parties.

5. When the matter came up for hearing it was submitted by learned counsel for the applicant that the applicant will be satisfied if a direction is given to the respondents to post her in any of the the Kvs in the Ernakulam or Cochin area as and when a vacancy of TGT (English) arises.

6. We have heard learned counsel appearing for the Kendriya Vidyalaya Shri.Vineeth Komalachandran also.

7. After hearing both sides we are of the view that though as per the guidelines in Annexure A6 to A8 OMs applicant is entitled to a posting at Ernakulam on spouse ground, exigencies of service is factor to be reckoned while the aforesaid Oms are applied in individual cases. We note that the respondents have been generous towards the applicant by accommodating her in the short term leave vacancies whenever such vacancies arose in the Kvs of Ernakulam/Kochi area. Learned counsel for the respondents submitted that the existing leave vacancy is on maternity ground and that the incumbent is expected to join soon.

8. We note that because of her living away from her husband and school going son the applicant has to take leave frequently for long spells. Of course the frequent availing of leave by a teacher is not in the interest of students. We were informed by the counsel for the respondent that even now the applicant is on leave which shows that she is not discharging her responsibilities to her students in the KV, Pallipuram.

9. Nevertheless, we direct the respondents to consider the applicant for being posted as TGT (English) on spouse ground whenever a vacancy arises in any of the KVs in Ernakulam/Cochin area, adverting to the Annexure A6 to A8 administrative instructions regarding posting of husband and wife together.

10. The Original Application is disposed of with the above directions. No order as to costs.

(Dated this the 12th day of February 2018)

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U.SARATHCHANDRAN)
JUDICIAL MEMBER

asp

List of Annexures in O.A.No.180/00851/2017

- 1. Annexure A1** - True copy of a representation to the 1st respondent on 16.8.2014.
- 2. Annexure A2** - True copy of the letter F.No.11038/1/TGT/2014/KVS (HQ) (E.II)/110086-90 dt. 1.10.2014 issued by 1st respondent.
- 3. Annexure A3** - True copy of the representation dt. 14.1.2015.
- 4. Annexure A4** - True copy of the representation dt. 3.7.2015.
- 5. Annexure A5** - True copy of the transfer order No.F.11046/2015-16/13/(14)-KVSHQ(Estt.II) dated 1.8.2015.
- 6. Annexure A6** - True copy of OM No. 28034/7/86-Estt.A dt.3.4.1986.
- 7. Annexure A7** - True copy of the OM No. 28034/2/97-Estt.A dt.12.6.1997.
- 8. Annexure A8** - True copy of the OM No. 28034/9/2009-Estt.(A) dt. 30.9.2009 issued by the DOPT.
- 9. Annexure A9** - True copy of the representation dt. 10.8.2006.
- 10. Annexure A10** - True copy of the representation in September, 2016.
- 11. Annexure A11** - True copy of the forwarding letter No.F31/transfer/2016-17-/KVS(EKM)/3641, dt.19.9.2016.
- 12. Annexure A12** - True copy of the representation dt. 11.1.2017.
- 13. Annexure A13** - True copy of the circular F. No.11029/2016/KVS(HQ)/E-II/TP dt. 26.4.2016 issued by the 1st respondent.
- 14. Annexure A14** - True copy of the displacement list of Teachers at Cochin.
- 15. Annexure A15** - True copy of the Transfer Guidelines dt.26.4.2017 issued by the 1st respondent.
- 16. Annexure A16** - True copy of the circular dt. 28.4.2017 issued by the 1st respondent.
- 17. Annexure A17** - True copy of the out patient report card dated

22.10.2016 of the General Hospital, Ernakulam.

18. Annexure A18 - True copy of the discharge summary issued by the Cochin Hospital, Ernakulam.

19. Annexure A19 - True copy of the medical certificate issued by Cochin Hospital dt. 16.2.2015.

20. Annexure A20 - True copy of the medical certificate issued by Cochin Port Trust Hospital 26.3.2016.

21. Annexure A21 - True copy of the vacancy statement.

22. Annexure A22 - True copy of the Certificate issued by the Assistant Commissioner of Customs (Administration) in the Custom House, Cochin on 29.4.2016.

23. Annexure A23 - True copy of a judgment in WP(C) No.31789/2017 dt. 6.10.2017.

24. Annexure A24 - True copy of the Certificate issued by the Kendriya Vidyalaya Sangathan dt. 2.1.2017.
