

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00008/2018**

Jabalpur, this Wednesday, the 7<sup>th</sup> day of March, 2018

**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Smt. Preeti Verma  
W/o Shri Aseem Behari Saxena  
Aged about 48 years  
R/o Quarter No.15,  
Jawahar Navodaya Vidyalaya  
Pichhore (Dabra)  
District Gwalior (M.P.) 475115

**-Applicant**

(By Advocate –**Shri Pranay Choubey**)

**V e r s u s**

1. Union of India,  
Through the Secretary,  
Ministry of Human Resource Department  
(Dept. of Education) Govt. of India,  
Sansad Marg, New Delhi 110001

2. Navodaya Vidyalaya Samiti  
Through the Commissioner  
B-15 Institutional Area,  
Sector 62 Noida Uttar Pradesh 201307

3. The Deputy Commissioner  
Navodaya Vidyalaya Samiti  
Regional Office, A-135/A  
Alkapuri Habibganj Bhopal (M.P.)

4. Smt. Suman Katiyar  
In Charge Principal,  
Jawahar Novodaya Vidyalaya  
Post Pichhore Dabra  
District Gwalior (M.P.) 475115

**- Respondents**

(By Advocate –**Shri Praveen Namdeo**)

## **ORDER**

The applicant has challenged the impugned order dated 19.12.2017 (Annexure A-8) passed by the respondent No.3, whereby without following the due process of law the applicant has been suspended and her Headquarter has been changed from Gwalior to Bhind.

**2.** The applicant in this Original Application has sought for the following reliefs:-

*“8(a) Quash the impugned order dated 19.12.2017 (Annexure A/8) in the interest of justice.*

*(b) Direct the respondents to pay all the consequential benefits to the applicant.*

*(c) Grant any other relief as deem fit in the facts and circumstances of the case.*

*(d) Award cost of filing of instant application.”*

**3.** At the outset, it is submitted by the learned counsel for the respondents that the charge sheet has been served upon the applicant for disciplinary action. In view of this, learned counsel for the applicant restricts claim qua the change of headquarter during the period of suspension from JNV, Gwalior to JNV, Bhind.

**4.** Precisely the case of the applicant is that the applicant's husband is posted as Vice Principal, JNV Karimganj, Assam and applicant's son is studying in 8<sup>th</sup> class in Saint Peter's School

Simaria, Dabra. The applicant's husband has completed his normal tenure of three years in Assam and he had been making representations to the authority concerned to transfer his services on the spouse ground in the school where applicant is posted, as the Vice Principal (Respondent No.4) has completed her normal tenure of 5 years in plain area as per the policy. It has been further submitted by the applicant that the applicant's husband has submitted an application dated 09.11.2017 (Annexure A-2) to replace respondent No.4 on spouse ground. There is apprehension in the mind of respondent No.4 that the applicant's husband may replace her, as respondent No.4 has completed her normal tenure as Vice Principal. So, the respondent No.4 started dragging applicant in a false cooked up case of alleged in-subordination so that applicant is transferred out of JNV Pichhore, Gwalior and applicant's husband may not derive the benefit of transfer on spouse ground as Vice Principal where respondent No.4 is posted at present. It is submitted that students/parents of the students of JNV Pichhore where applicant is posted, lodged a complaint against the House Master namely Swati Mishra alleging that she forces the students to do household work and thereby harassing the students and it has been done on provoking by respondent No.4. The respondent No.3 instead of making any fact finding inquiry

has abruptly given an advisory memo to the applicant on 10/13.10.2017 (Annexure A-7) alleging groupism amongst teachers and the students; alleged insubordinate on the part of the applicant, failure to perform assigned duties in true spirit and alleged that she compromised with the safety and security of the girl students of her hostel. Suddenly without asking for any explanation from the applicant and without any cogent or germane reasons, the respondent No.3 issued the impugned suspension order dated 19.12.2017 (Annexure A-8) whereby the applicant has been suspended on contemplation of departmental enquiry under Sub Rule 1 of Rule 10 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for brevity '**CCS (CCA) Rules, 1965**') and has been ordered that during the period of suspension the Headquarter of the applicant will be JNV Bhind.

**5.** The respondents Nos.2 to 4 have filed a short reply and it has been submitted by the replying respondents that the applicant has already been relieved from JNV Dabra, District Gwalior vide relieving order dated 19.12.2017 (Annexure A-9) and was directed to report the new Headquarter at NVS, District Bhind. It has been further submitted by the replying respondent that Bhind is only 80 to 90 km approx, away from the previous Headquarter of the applicant. It has been specifically submitted by the respondents

that action is to be initiated in case of failure on the part of the employees to conduct himself/herself violating the code conduct rules applicable for the employees of the NVS. Moreover, the disciplinary authority is supposed to take all reasonable necessary steps to maintain discipline and conduct of the employee working in a co-educational residential school to ensure that a congenial/peaceful atmosphere exist in the Vidyalaya. The replying respondents has relied upon the Chapter 2, Clause 16.2 of CCS(CCA) Rules, 1965 which is as under:-

*“2. The competent authority can change the headquarters of a Government servant under suspension if it is in public interest.....”*

6. It is specifically submitted by the replying respondents that the applicant has filed the Original Application without availing / exhausting the departmental remedies/opportunity i.e. to make a representation against her suspension before the competent appellate authority, in case she was actually aggrieved with her suspension or change in her Headquarter during the period of her suspension. So the applicant did not exhaust the remedy available to her in the department before approaching this Tribunal.

7. The applicant has also filed rejoinder to the short reply filed by the respondents Nos.2 to 4. The applicant has submitted that in view of the judgment passed by the Hon'ble Apex Court in the

case of *Ajay Kumar Choudhary vs. Union of India*, Civil Appeal No.1912/2015, the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training Establishment had issued an office memorandum dated 03.07.2015 (Annexure RD/1) regarding consolidated instructions on suspension. It has been submitted by the applicant that without there being any grounds for suspension of applicant, it cannot be said that remedy of appeal is available to be applicant against the suspension order at this stage. Even otherwise, the impugned order not only relates to suspension of the applicant but her Headquarter has also been changed from Dabra, District Gwalior to Bhind which is about 200 km away from the present place of posting of applicant and the competent appellate authority is not vested with the powers to grant interim relief to the applicant, therefore, remedy of appeal is not a efficacious remedy to the applicant. It is not a case of suspension only but punitive transfer of the applicant in the mid-session. In rejoinder, the applicant has further submitted that the distance between Pichhore, Dabra to Bhind is about 193 kms. Copy of GPS map is annexed as Annexure RD/2. The applicant has denied any misconduct on her part while following the policy guideline of the Samiti. It is matter of records that the students/parents of the students where applicant was posted lodged

a complaint against the House Master namely Swati Mishra alleging that she forces students to do household work and this is mere apprehension of the Vice Principal and Swati Mishra that applicant had instigated them to lodge the complaint. Neither in the advisory memo the said conduct of applicant is mentioned nor there is any written complaint of any student/parents that applicant has instigated them to lodge complaint.

**8.** Heard the learned counsel for both the parties and I have perused the documents annexed with the pleadings.

**9.** Now, that this stage as the statement given by counsel for the respondents that the charge sheet has been served upon the applicant, the counsel for the applicant restricts its claim only qua the change of Headquarter from Pichhore, Dabra, to Bhind.

**10.** The learned counsel for the applicant has relied upon the judgment passed by the Guwahati Bench of this Tribunal in Original Application No.040/00312/2016 decided on 18.08.2016.

It has been submitted by the learned counsel for the applicant that in the similar circumstances qua the change of headquarter of the applicant, the Guwahati Bench of this Tribunal had decided the matter by relying upon the judgment of Hon'ble Apex Court in the matter of ***Director of School Education, Madras and others, vs. O. Karuppa Thevan & Another***, 1996 Supp. (2) SCC 666.

11. If the judgment passed by the Guwahati Bench of this Tribunal in the case of ***Shri Jayanta Bhattachajee vs. The Union of India & others***, it is seen that the change of headquarter of the applicant during the midst of academic session will adversely affect the education of his children. In support of the said contention, learned counsel has relied on the decision of the Apex Court in the case of ***Director of School Education, Madras*** (supra). In the case of ***Jayanta Bhattachajee*** (supra), the learned counsel also relied on the OM dated 08.09.1956 issued by the Government of India, Ministry of Home Affairs wherein it was stipulated as under:-

*“An officer on suspension is regarded as subject to all other conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such, the headquarters of a Government servant should normally be assumed to be his last place of duty. However, where an individual under suspension requests for a change of headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of travelling allowance, etc. or other complications.”*

12. On the other hand, the learned counsel for the respondents has relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh in Writ Petition No.17897/2012 decided on 07.11.2012 whereby it has been decided that if there are serious

allegation against him and even on administrative consideration also petitioner's headquarter can be changed.

**13.** In the instant case, the impugned order dated 19.12.2017 (Annexure A-8) has been issued by respondent No.3 for suspension of the applicant, on the ground of disciplinary proceedings has been contemplated. If this Annexure A-8 is seen, there are no specific grounds for suspension. Now only the question is regarding the change of Headquarter from JNV Gwalior to JNV Bhind. As per the order passed by the Guwahati Bench of this Tribunal similar issue has been dealt with and the instant case is fully covered by the order passed in Original Application No.040/00312/2016. Moreover, the applicant has specifically submitted that the change of Headquarter of the applicant amounts to transfer, the impugned order of suspension has been leveled against the applicant on the advisory memo given by the respondent No.3 which is annexed as Annexure A-7. The applicant has also submitted in its Original Application that the son of the applicant is studying in 8<sup>th</sup> class in Saint Peter's School Simaria, Dabra and such a mid session change or place of posting will affect the studies of her son. Admittedly, there is no consent on the part of the applicant for the change of Headquarter during the suspension period and as per finding of our coordinate Bench at

Guwahati while relying upon the Office Memorandum dated 08.09.1956, the headquarters of a Government servant should normally be assumed to be his last place of duty. However, where an individual under suspension requests for a change of headquarters and there is no objection to a competent authority for changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure.

**14.** At this stage, the learned counsel for the respondents have relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh in CWP No.11861/2015 in the case of ***Rakesh Kumar Sharma vs. The State of Madhya Pradesh*** decided on 28.07.2015. He further submitted that no representation/appeal has been filed by the applicant regarding change of Headquarter after the suspension of the applicant.

**15.** On the other side, the learned counsel for the applicant submits that today itself, the applicant has filed representation/appeal before the competent authority. Being so, it will be in the interest of justice to direct the competent appellate authority to decide the representation/appeal preferred by the applicant qua the change of headquarter of the applicant.

**16.** Accordingly, the applicant is granted liberty to file appeal, if not, already filed to the competent authority qua the change of

headquarters while passing the suspension order from Gwalior to Bhind, within a period of one week. The respondents are directed to consider the representation/appeal of the applicant to decide within a further two weeks after receiving the representation/appeal. Needless to say that representation/appeal shall be only restricted qua change of headquarter from Pichhore, Gwalior to Bhind. In the meanwhile, there shall be no coercive action against the applicant.

**17.** With these observations, this Original Application is finally disposed off.

**(Ramesh Singh Thakur)**  
**Judicial Member**

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