

(RESERVED ON 05.03.2019)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

This is the 06th day of *March*, 2019.

ORIGINAL APPLICATION NO. 330/143/2019

HON'BLE MS AJANTA DAYALAN, MEMBER (A)
HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J)

1. Mohd Babar TGT (English) 39 years, S/o Shri Moeen Miyan, Kendriya Vidyalaya N.E.R. Bareilly.

.....Applicant

VERSUS

1. Union of India through the Joint Commissioner/Commissioner Kendriya Vidyalaya Sangathan 18 Institutional Area Shaheed Jit Singh Marg, New Delhi-11001.
2. The Deputy Commission Kendriya Vidyalaya Sangathan Regional Office Lucknow.
3. The Principal K.V. NER Izzatnagar Bareilly.
4. The Principal, K.V. Balrampur

.....Respondents

Advocate for the Applicant : Shri S K Singh Vashisht

Advocate for the Respondents : Shri N P Singh

O R D E R
(Delivered by Hon'ble Ms. Ajanta Dayalan, Member-A)

Shri S K Singh Vashisht, learned counsel for the applicant and Shri N P Singh, learned counsel for the respondents are present.

2. Learned counsel for the applicant states that this Original Application (OA) has been filed by the applicant Mohd Babar, TGT, feeling aggrieved by the transfer from Bareilly to Balrampur in February, 2019 and has sought directions to the respondents to consider his case as spouse case and adjust him in Bareilly or Shahjahanpur or within 100 kilometers as per the transfer policy of Kendriya Vidyalaya Sangathan (KVS).

3. The applicant was initially appointed as Trained Graduate Teacher (TGT) in Kendriya Vidyalaya in 2008. He joined Kendriya Vidyalaya, Izzatnagar, Bareilly in June 2012 and is working there since then. The applicant was selected to the post of Post Graduate Teacher (PGT) and he gave representations dated 01.09.2018 and 01.02.2019 for considering his case as spouse case and to post him in Bareilly. However, vide order dated 05.02.2019 (Annexure No. A-4 to the OA) he was posted from Kendriya Vidyalaya, Bareilly to Kendriya Vidyalaya, Balrampur. He gave another representation dated 06.02.2019 (Annexure No. A-5 to the OA) for consideration of his case as spouse case and for posting him to any Kendriya Vidyalaya in Bareilly. In his representation, he has stated that his wife is a State Government employee posted at Bareilly and he has infant babies and a sister of marriageable age. In the OA, the applicant has also placed on record the transfer guidelines for teachers where a spouse being a Government sector employee is a factor to be considered for posting at the same station or within 100 kilometers. In view of the personal difficulties, the applicant has pleaded for posting him at any Kendriya Vidyalaya at Bareilly.

4. The case of the applicant is that in view of the provisions contained in transfer guidelines of Kendriya Vidyalaya Sangathan, his case may be considered as a spouse case and he may be retained at Bareilly or in nearby place.

5. The respondents have contested the claim of the applicant and have stated that this is not a case of transfer, but of promotion from TGT to PGT through Limited Departmental Examination. They have also stated that the applicant gave acceptance to the offer of promotion dated 05.02.2019 on 08.02.2019 and was relieved on 11.02.2019 from Bareilly.

He further stated that the applicant has already joined at Kendriya Vidyalaya, Balrampur on 22.02.2019. He further stated that the transfer guidelines are not applicable in the instant case as this is not a case of transfer, but a case of movement on promotion for which the applicant himself has given his acceptance.

6. We have heard counsels of both the parties and perused the pleadings available on record.

7. Clearly the order dated 05.02.2019 is an offer for promotion through Limited Departmental Examination from TGT to PGT, as is evident from the order itself. Hence, this case cannot be covered under the Transfer Guidelines relied upon by the learned counsel for the applicant. These Guidelines will be applicable for the employees who are moved from one station to another station in the same grade. We also find that the applicant himself has given his acceptance to the offer of promotion dated 05.02.2019 as recently as 08.02.2019. Hence, we are of the view that he should honestly go and work at the place of posting as per this order i.e. at Balrampur. The applicant has also been relieved and joined at the new place on 22.02.2019. Hence, there is no justification for any interference by this Tribunal in this case.

8. Further, we note that the representation dated 06.02.2019 (Annexure No. A-5 to the OA)(as also earlier two representations) of the applicant is for specific place i.e., 'any KV of Bareilly'. We also note that the applicant is at Bareilly since June 2012 and has therefore, completed almost 07 years there. This is against normal tenure of three years. We are of the view that the applicant, having served at Bareilly for such a long period, cannot seek transfer to the same place again. During the

arguments, learned counsel for the applicant stated that the applicant is not seeking transfer at Bareilly and he is only seeking consideration of his case as spouse case. However, we find that in the representation dated 06.02.2019, the applicant has specifically mentioned in the Subject that 'Modification in place of posting of PGT (English) from KV Balrampur to any KV of Bareilly'. Even in earlier two representations dated 01.09.2018 and 01.02.2019, the applicant has sought transfer only at Bareilly (it is only in OA that the applicant is even mentioning another places of choice). We are of the view that his prayer for transfer at one particular place i.e. Bareilly cannot be granted. The applicant can justifiably seek transfer under the Transfer Guidelines after having completed his normal tenure as PGT at the new place of posting.

9. For the reasons already mentioned above, we do not find any justification in giving any directions in this case. The applicant himself applied for Limited Departmental Examination and after qualifying the same, has given his acceptance to the offer of promotion dated 05.02.2019 as recently as 08.02.2019 and as such, he should now follow the order already issued. The applicant has also joined at the new place and hence there is no justification in the present OA.

10. Accordingly, the OA is dismissed being devoid of merits. No order as to cost.

(RAKESH SAGAR JAIN)
MEMBER-J

(AJANTA DAYALAN)
MEMBER-A

Anand...