

OA.No.170/00764/2018/CAT/Bangalore Bench
**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00764/2018

DATED THIS THE 17th DAY OF SEPTEMBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V.SANKAR, MEMBER (A)

Sulabha Kumari R
Aged 43 years
W/o.C.Selvin Kumar
Trained Graduate Teacher (English)
Jawahar Navodaya Vidyalaya
Gulbarga II
Karnataka-585101.

...Applicant

(Party-in-person)

Vs.

1. Union of India
Represented by Secretary
Ministry of Human Resource Development
Navodaya Vidyalaya Samiti
Shastri Bhavan
New Delhi-110 001.

2. The Commissioner
Navodaya Vidyalaya Samiti
B-15, Institutional Area
Sector 62, Noida
Gautam Budh Nagar
Uttar Pradesh-201 309.

3. The Deputy Commissioner
Navodaya Vidyalaya Samiti
Ranga Reddy
Telangana-500 107.

4. The Principal
Jawahar Navodaya Vidyalaya
Chettachal P.O.
Trivandrum-695 551.

5. The Principal
Jawahar Navodaya Vidyalaya
Kulamavu P.O.
Idukki-685 601.

6. Ms.Roshini M.T.

Trained Graduate Teacher (English)
Jawahar Navodaya Vidyalaya
Chettachal P.O.
Trivandrum-695 551.

7. Remila Francis
Trained Graduate Teacher (English)
Jawahar Navodaya Vidyalaya
Kottarakkara
Kollam-691 506.

...Respondents

(By Advocates Shri M.Raja Kumar and Shri Milludandapani for R2-5)

O R D E R (ORAL)

(PER HON'BLE DR.K.B.SURESH, MEMBER (JUDL.))

Heard. Shri Raja Kumar submits that Smt.Remilla Francis, a party in this case has been retained at a particular place for 21 years on spouse ground. He explained that under the rules, if the spouse is working in Central Government or State Government or in Central PSU, then the spouse ground will be applicable to her and additional points to be granted to her and therefore she having been obtained more points than the applicant had been accommodated there. They also produced the record relating to the spouse of Smt.Remilla Francis as Annexure-AR1 and when we perused it, we found that St.Ephrem's Higher Secondary School is a private school in Kerala and therefore she will not come within the ambit of the rules in vogue. At this point, Shri Raja Kumar would submit that this is a State Government aided school. But schools in Kerala are being given Govt. aid and salaries are being given by the Govt. as a measure for enhancement of education. That will not ipso facto make them in the Govt. Institution and therefore Smt.Remilla Francis is declared ineligible to be considered on the spouse ground. This is a mistake committed by the respondents. Therefore, we will now remit the matter back to the respondents after quashing the transfer order passed against the

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applicant. She will continue to be at the place for the next three months, within that period the points will be recalculated and correct points to be given to both holding that Smt.Remilla Francis is ineligible on spouse ground based on Annexure-A2 within next one(1) month and pass appropriate order. We also grant liberty to the applicant to raise if the order is against her.

2. The OA is disposed of. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Compilation No.1

Annexure-A26: A photocopy of the Order F.No.11-50/2016-NVS-(Estt.II/6660 dtd.02.11.2017 issued by the 2nd respondent with a covering letter bearing No.F.No.1-4/NVS(HR)/Estt.II/2017 dtd.13.11.17 from the 3rd respondent along with the representation of the applicant-Annexure-A25.

Compilation No.2

- Annexure-A1: A photocopy of the Data showing Service Details of Ms.Roshini M.T, TGT English who displaced the applicant
- Annexure-A2: A photocopy of the notification of the Guidelines of Annual Transfer Drive showing the Mandatory tenure of 10 years
- Annexure-A3: A photocopy of the Transfer order of the applicant from JNV Trivandrum to Gulbarga II and the Hindi version of the order states due to lack of vacancy in her opted station JNV Kollam
- Annexure-A4: Transfer application of the applicant
- Annexure-A5: Deemed vacancy list of TGT English in 2016
- Annexure-A6: Proof of Ms.Remila Francis transferred to JNV Kollam who completed 21 years in JNV Palakkad itself
- Annexure-A7: Ms.Remila Francis's favourable transfer to JNV Kollam (Plain to Plain Area Ground)
- Annexure-A8: The representation of the applicant to the 2nd respondent dtd.6.6.2016
- Annexure-A9: The 2nd representation of the applicant to the 2nd respondent for JNV Kollam dtd.27.6.2016
- Annexure-A10: Proof of the 3rd representation of the applicant to the 2nd respondent dtd.27.7.2017 through proper channel & the proof of representation sent by Fax on 27.7.2017
- Annexure-A11: Copy of the order dtd.28.07.2017 in OA.No.648/2016 of the Hon'ble Tribunal, Erankulam Bench
- Annexure-A12: A photocopy of the order dtd.18.08.2016 issued by the 2nd respondent
- Annexure-A13: Photocopy of transfer list of teachers recruited under special recruitment drive published by the 2nd respondent
- Annexure-A14: Copy of the order dtd.22.12.2016 in OA.No.180/00648/2016 of the Hon'ble Tribunal, Ernakulam Bench
- Annexure-A15: Copy of Transfer order dtd.9.2.2017 issued by the 3rd respondent
- Annexure-A16: Copies of the treatment details, discharge summary and Medical certificate of the applicant
- Annexure-A17: The representation of the applicant to the 2nd respondent dtd.17.3.2017 for continuance at JNV Idukki
- Annexure-A18: Copy of the relieving order from JNV Idukki dtd.31.3.2017 issued on 29.5.2017
- Annexure-A19: Cancelling the relieving order of the Principal JNV Idukki and reinstating the applicant in JNV Idukki by the order dtd.5.6.2017 in OA.No.180/00424/2017 of the Hon'ble Tribunal, Ernakulam Bench
- Annexure-A20: Copy of transfer list of TGT English 2017 – Manohar Pillai for JNV Idukki & the 2nd respondent's order dtd.14.09.2017 transfer drive 2017 closed

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- Annexure-A21: Copy of transferring the applicant to Gulbarga again by order No.F.11-50/2016-NVS(ESTT.II)/11512 dtd.5.10.17 issued by the 2nd respondent violating the order dtd.5.6.2017 in OA.No.180/00424/2017 of the Hon'ble Tribunal, Ernakulam Bench
- Annexure-A22: Copy of order issued by the 2nd respondent and covering letter dtd.12.10.2017 issued by the 3rd respondent sent by 4th respondent by email on 13.10.2017 during winter holidays (28.9.2017 to 20.10.2017)-displacing the applicant to JNV Gulbarga II from JNV Idukki
- Annexure-A23: Copy of relieving order JNV Idukki dtd.17.10.2017 sent by mail on 19.10.2017 during winter holidays (28.9.2017 to 20.10.2017)
- Annexure-A24: Copy of the order dtd.17.10.2017 in OA.No.180/00835/2017 of the Hon'ble Tribunal, Ernakulam Bench-directing the 2nd respondent to consider the applicant's representation for posting either in JNV Pathnamthitta or JNV Alleppy or any other JNV in Kerala
- Annexure-A25: Representation of the applicant as per the order of the Hon'ble Tribunal, Ernakulam Bench dtd.23.10.2017 to the 2nd respondent
- Annexure-A26: Disposal of the applicant's representation without any relief by the 2nd respondent dtd.13.11.2017
- Annexure-A27: The transfer order with immediate effect dtd.9.2.2018 Ms.Sacithra Devi R from JNV Kodagu is transferred to JNV Alappuzha in contract to previous order (Annexure 26 of the 2nd respondent)
- Annexure-A28: Representation from Mr.Vijayan TGT English JNV Pathanamthitta to JNV Datia, M.P and his transfer list favouring the applicant's transfer to Pathanamthitta
- Annexure-A29: The transfer application of the applicant in the transfer drive 2017-18 opting Alappuzha, Idukki or Pathanamthitta
- Annexure-A30: Vacancy position of TGT English in the transfer drive 2018 and copy of the applicant's transfer application
- Annexure-A31: A photocopy of the Hon'ble Tribunal's order OA.No.180/00207/2018 dtd.5.6.2018 (Ernakulam Bench) stating lack of Jurisdiction
- Annexure-A32: Photocopy of the proposed transfer list for Annual transfer drive 2018 published on 5.7.2018
- Annexure-A33: Copy of the notice dtd.05.07.2018

Annexures with reply statement:

- Annexure-R1: Copy of the Ernakulam Bench order dtd.05.06.2018 in OA.No.207/2018
- Annexure-R2: Copy of the order dtd.17.08.2018 of NVS, Noida
- Annexure-R3: Copy of the NVS, Noida order dtd.18.08.2016
- Annexure-R4: Copy of the order dtd.05.10.2017 of Commissioner, NVS, Noida
- Annexure-R5: Copy of the order dtd.02.11.2017 of Commissioner, NVS, Noida

Annexures with additional reply statement:

Annexure-AR1: Copy of the certificate issued by St.Ephrem's Higher
Secondary School

Annexure-AR2: Copy of certificate of working spouse issued by Indian Audit
and Accounts Department

Annexures with rejoinder:

Annexure-A34: A photocopy of the Notice dtd.24.7.2018

Annexure-A35: Proposed Transfer List (ATD 2018)- Round 01 – dtd.5.7.2018

Annexure-A36: Final Transfer List (Round 1&2 (ATD 2018) dtd.13.8.2018

Annexure-A37: Notice of Provision for downloading the final transfer orders
dtd.28.8.18

Annexure-A38: Copies of the JNV Idukki Documents dtd.29.5.2017
