

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**ORIGINAL APPLICATION NO.060/01398/2018 &
MAs No. 060/01810/2018 & 060/00010/2019**

Chandigarh, this the 22nd day of February, 2019

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**CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

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Smt. Sudeshna Kumari wife of Sh. Vinod Kumar age 55 years working as Primary Teacher in Kendriya Vidyalaya Sangathan (KVS) resident of Staf Qtr. No. 7, Type -II, K.V. No. 2, Ambala Cantt, Haryana.

.....Applicant

(Present: Mr. M.D. Jangra, Advocate)

Versus

1. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110016.
2. The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Gurugaon – 122001.
3. The Principal, Kendriya Vidyalaya Sangathan, K.V. No. 2, Ambala Cantt (Haryana)-133001.

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Respondents

(Present: Mr. R.K. Sharma, Advocate)

ORDER

MS. P. GOPINATH, MEMBER (A)

1. Applicant, who is a teacher in KVS Ambala Cantt, was before this Tribunal in O.A. NO. 060/00476/2018, wherein a direction was issued to the respondents to redress her grievance, by passing a reasoned and speaking order.
2. Applicant argues that a non-speaking and non-reasoned order was issued and she was directed to be relieved from the present place of posting. Applicant submitted an application for Child Care Leave (CCL) from 09.10.2018 to 28.10.2018, as her son was studying in 10th standard. She submitted another application

to extend her CCL up to 27.11.2018. The prayer of the applicant is for quashing of the impugned order dated 05.10.2018 (Annexure A-1). She, by way of this O.A., has also sought exemption from transfer on the ground that her son is studying in the 10th standard.

3. The respondents have filed MA No. 060/00010/2019 for vacating the interim order dated 22.11.2018, staying the transfer of the applicant, and dismissing the O.A. on merits.

4. Heard the counsel for applicant and respondent, and perused the written submissions made.

4. Applicant is a Primary Teacher (PRT) working with KVS, and has all India transfer liability. She joined KV No. 2, Ambala Cantt in November, 1998 and worked up to 21.05.2014, for more 16 years in the same station. She was transferred to K.V. Meerut on administrative ground on 21.05.2014. On 01.07.2016, she was transferred back to K.V. Ambala Cantt and is working in Ambala Cantt till date.

5. The respondents argue that since 1998 excluding the period of two years and two months of working in Meerut, the applicant has been working in KV Ambala Cantt. While arguing for vacating the stay, the respondents submit that the applicant is a person who created disharmony among the staff, does not come up to the satisfaction of parents and the students, and indulges in insubordinate behaviour. Learned counsel for the respondents brings to our notice that the applicant is a teacher who is in the habit of awarding corporal punishment to her students. The Principal KVS Pinjore, during the academic inspection of KV

Ambala Cantt, was assigned the duty of observing the applicant. She reported that she did not find the conduct of the applicant as per Code of Conduct of the KVS. The Deputy Commissioner KVS Regional Office in Gurugram, received a number of complaints against the applicant, and hence a recommendation was made for her transfer to KVS outside the Region. The Air Commodore, who was the Air Officer Commanding, Air Force Station, Ambala Cantt and also Chairman of Vidyalaya Management Committee, KV No. 2, Ambala Cantt also strongly recommended in October, 2017 for transfer of the applicant from KV No. 2 Ambala Cantt. The ground, on which such transfer was recommended, was misconduct with the staff members and corporal punishment inflicted by her on the students. In addition, it was pointed out that she has vitiated the atmosphere in the school by instilling fear in the minds of the students. The applicant also indulged in filing complaints against her colleagues in the police station thereby vitiating the teaching atmosphere in the school.

6. In view of the above circumstances, the respondent transferred the applicant to KVS No. 1, Ferozepur under para 7(e) of the Transfer Guidelines, vide order dated 17.04.2018 (Annexure A-3). Para 7(e) provides that an employee can be transferred if the employee's stay has become prejudicial to the interest of the organization. Applicant would argue that she should not be transferred as per para 7 (d) of the Transfer Policy and Guidelines goes in her favour, wherein KVS employees whose children are likely to appear in 10th and 12th Board examination, will get exemption of transfer for one year. Applicant filed O.A. No.

060/00476/2018 which was dismissed as withdrawn with liberty that if a representation is submitted it will be decided by passing a reasoned and speaking order. Applicant was also given a personal hearing by the Commissioner KVS on 10.08.2015, before the speaking order was passed.

7. Respondents attribute the following incidents to the applicant, as reproduced below:-

- (i) On dated 04.10.2018 Ms. Geeta a natural guardian of Ms. Arzoo a student of class II-A submitted a written complaint against Mrs. Sudeshna Kumari Class teacher II-A for giving corporal punishment by beating badly at her finger whose plastic surgery was done on 08th July 2018 at Sai Hospital, Ambala Cantt. For it she was given a Memorandum on 5th October 2018 for explaining why disciplinary action should not be initiated against her for such violation of Supreme Court's order for not giving corporal punishment to the students.
- (ii) On parent's request dated 04.10.2018, the section of Ms. Arzoo a student of class II-A was changed to II-D immediately for her safety and Mrs. Sudeshna Kumari, the class Teacher of Ms. Arzoo refused to change her section for which she was given a Memorandum again on 05.10.2018 for not obeying the office order dated 04.10.2018.
- (iii) On 5th October, 2018 Mrs. Kavita Malhotra, Offg. Headmistress submitted a written complaint regarding misbehaviour of MKrs. Sudeshna Kumari, PRT. As per the complaint of Mrs. Kavita Malhotra, Offg. HM, she used un-parliamentary language and physically assaulted her by throwing chalk box on her face. Smt. Sudeshna Kumari was again issued Memorandum on 08.10.2018."

8. In order to motivate the applicant to move out from KVS Ambala, her transfer order to Firozepur was amended, to KV High Ground Chandigarh, which is nearer station to Ambala. Applicant did not join, but submitted application for CCL in different spells of period. Respondents would argue that the son of the applicant did not submit examination fee for the year 2017-18 and is repeating the 10th standard in 2018-19, and also associates this with the applicant's desire to continue in Ambala, on the ground of her

son's 10th class repetition. The applicant, contesting the respondents, argues that the respondents did not accept the examination fee of her son, and hence he is repeating the 10th standard. The submissions made on both the sides on this matter would be best ignored as they appear to be allegations against each other. It would also be difficult to believe that a reputed educational institution like Kendriya Vidyalaya would prevent a student from depositing exam fee. It is also brought to our notice by the respondents that one Smt. Shivani from KVS AFS Digaru, Guwahati has, vide order dated 14.11.2018, joined KVS No. 2 Ambala Cantt on 26.11.2018, in the place the applicant.

9. Applicant also filed complaint with the police against 11 staff members, thus disturbing the peace of mind of the staff, and creating tension among the students in the Vidyalaya caused by visit of police to the school. This complaint resulted in frequent police visits to the Vidyalaya. The complaints made were against the PGT, TGT and PRT, numbering 11. That any teacher like the applicant would find cause to file police complaint against 11 of her teacher colleagues would itself reflect that the applicant is a trouble maker, not respecting maintenance of peach and cordial atmosphere in the school.

10. The respondents bring to our notice the fact that the staff of KVS has all India transfer liability and the same applies to the applicant as well. The specific clause, under which she was transferred was 7(e), that is, on the ground that the applicant's stay has become prejudicial to the interest of the organization. There is no doubt left from the submissions made, that the

applicant's stay in the school is not peaceful. The fact that she visits corporal punishment on the children is one which is to be deplored, and for which she can be prosecuted against, an option not examined by the respondents. Whereas, there is a clause 7(d) in transfer guidelines, which permits transfer exemption for a year for the employees whose children are studying in class 10th, this clause would be best overlooked for the applicant in view of above submissions made regarding applicant's behavior and treatment of students, and such a teacher in any school would be best avoided. This is a call that the respondents have to take under the relevant rules.

11. It would occur to us in the instant case that the applicant has created enough disturbance in KVS Amabla Cantt. We also take note of the fact that a teacher from Guwahati has been transferred to the applicant's place and joined in Ambala Cantt. The applicant, in these circumstances, should immediately be moved to Chandigarh so that the strained relations of the applicant with the colleagues and the students can be remedied.

12. Applicant is PRT and her having visited corporal punishment should be deplored in the interest of children welfare and education. We saw the original file of KVS, produced before the Bench, wherein the applicant's case was dealt. While going through the same, we found placed on record the photographs of one child on whom surgery was done. The applicant visited corporal punishment on this child, that resulted in huge bleeding in her fingers and the pictures of that incident, placed in the file, would

break the conscience of any person. Students have to be nurtured and educated, not injured by the teachers.

13. The Bench strongly holds the view, that this applicant requires a break, in another location. We would also restrain the applicant, a Primary School Teacher, from visiting corporal punishment on the primary school children, as evidenced from the photographs in the KV file summoned and placed before us. Education cannot be delivered in an atmosphere of fear, particularly in the tender age of primary class children. Any fear that sits in this age would have a long lasting impact and psychologically impair a child, which should be best avoided.

14. We also note that there is nothing illegal or contrary to the rules in the transfer of the applicant, as she has been working in Ambala for the last 19 years, with a two years break out of Ambala. Applicant is, therefore, a very long stayee in Ambala and a change of location would not cause any hardship to her and may also provide better atmosphere in the school

15. In view of the above discussion, we find no merit in the case. The applicant is directed to join the KVS Chandigarh within seven days. The O.A. is dismissed. MAs No. 060/01810/2018 & 060/00010/2019 stand disposed of accordingly. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 22.02.2019

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