

*(OPEN COURT)*

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

This is the 02<sup>nd</sup> day of **AUGUST, 2019**.

**ORIGINAL APPLICATION NO. 330/817/2019**

**HON'BLE MR JUSTICE BHARAT BHUSHAN, MEMBER (J)**  
**HON'BLE MR MOHD JAMSHED, MEMBER (A)**

1. Gyan Murti Mishra S/o Gaya Prasad Mishra, Employee Code No. 30045 R/o Village/Mohalla – House no. 99 E W.S. Kanshi Ram Awas Yojana Neem Saray Begam Saray Allahabad.  
.....Applicant.

**VERSUS**

1. Union of India through its Commissioner Kendriya Vidyalaya Sangathan 18 Sangathan Region Shahid Jeet Singh Marg, New Delhi-110016.
2. The Deputy Commissioner Kendriya Vidyalaya Sangathan, Varanasi Region (U.P.)
3. The Principal Kendriya Vidyalaya Sangathan Bina Bhopal Region (M.P.).
4. The Principle Kendriya Vidyalaya Sangathan Air Force Station Bamrauli Varanasi Region U.P.
5. Hari Kesh Kumar T.G.T. Sanskrit, Principle Kendriya Vidyalaya Sangathan Gangtok, Sikkim.

.....Respondents

Advocate for the Applicant : Shri A K Tripathi

Advocate for the Respondents : Shri N P Singh

**ORDER**  
**(Delivered by Hon'ble Mr. Justice Bharat Bhushan, Member-J)**

Heard Shri A K Tripathi, learned counsel for the applicant and Shri N P Singh, learned counsel for the respondents.

2. The brief facts of the case are that the applicant Gyan Murti Mishra who was working as Trained Graduate Teacher (TGT) at Kendriya Vidyalaya, Air Force Station, Bamrauli, has recently been transferred to

Bina, Madhya Pradesh. The impugned transfer order dated 26.07.2019 is available on record as Annexure No. A-1 to the OA.

3. Learned counsel for the applicant has stated that this transfer is against the guidelines of the Department and the said transfer would result in harassment of the applicant.

4. Learned counsel for the respondents has stated that the applicant has not come before this Tribunal with clean hands as the OA has been filed on 01.08.2019, prior to that the applicant was relieved on 30.07.2019 and the reliever from Gangtok, Sikkim has joined today. He further stated that there is no vacant position available now at Bamrauli.

5. We have considered all the arguments of the learned counsel for the applicant.

6. We believe that the guidelines issued by the Department are not legally enforceable. The Hon'ble Apex Court in the case of **Union of India Vs. S. L. Abbas reported in AIR 1993 SC 2444** has been pleased to observe as under:-

**"The said guideline, however, does not confer upon the Government employee a legally enforceable right."**

7. In the case of **S.C. Saxena Vs. Union of India and others reported in (2006) 9 Supreme Court Cases 583**, the Hon'ble Apex Court has held that tendency of not reporting at the new place and instead of indulging in litigation to ventilate grievances needs to be curbed. The Hon'ble Apex Court has further held that it is the duty of the Government servant to first report for work where he is transferred and thereafter, make a representation as to what may be his personal problems. The relevant portion of this judgment is reproduced as below:-

**“In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problem. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.”**

8. Learned counsel for the applicant further stated that the applicant had made representation to the department. Copy of this representation dated 27.07.2019 is available on record as Annexure No. A-4 to the OA. He has stated that the grievance of the applicant would be redressed, if the competent authority amongst the respondents is directed to decide his representation dated 27.07.2019 by passing a reasoned and speaking order within a stipulated time frame.

9. In view of the limited prayer made by the counsel for the applicant, the OA is disposed of with the direction to the competent authority amongst the respondents to decide the representation of the applicant by passing a reasoned and speaking order within a period of two months from the date of receipt of certified copy of this order. No order as to cost.

10. Needless to say, we have not entered into the merits of the case. We have also not passed any interim order or stayed the impugned order.

**(MOHD. JAMSHED)  
MEMBER-A**

**(JUSTICE BHARAT BHUSHAN)  
MEMBER-J**

Arun..