

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD**

Original Application No. 021/0868/2018

Date of C.A.V. : 20.11.2018

Date of Order : 06. 12.2018

Between :

T.Basi Reddy, S/o Late T.Yella Reddy,
Aged : 57 years,
Vice Principal,
Jawahar Navodaya Vidyalaya,
JNV, Chikkaballapura, Karnataka.

... Applicant

And

1. Union of India,
Rep. by its Commissioner,
Navodaya Vidyalaya Samiti,
Ministry of Human Resource Development,
Government of India,
B-15, Industrial Area, Sector-62,
Noida, District Gautham Budh Nagar, UP – 201 309.

2. The Deputy Commissioner,
Navodaya Vidhya Samiti,
Hyderabad Region,
Nallagandla Road, Gonapally,
Ranga Reddy District, Hyderabad,
Telangana – 500 107. ... Respondents

Counsel for the Applicant ... Mr. K.Sudhakar Reddy, Advocate
Counsel for the Respondents ... Mr. N.Srinatha Rao, S.C. for Rlys.

CORAM:

Hon'ble Mr.Justice R.Kantha Rao ... ***Member (Judl.)***
Hon'ble Mrs.Naini Jayaseelan ... ***Member(Admn.)***

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judi.) }

The OA is filed assailing the transfer order dated 25.08.2018 issued by the respondents transferring the applicant from Jawahar Navodaya Vidyalaya (JNV), Chikkaballapura, Karnataka to JNV, Banaskantha, Gujarat.

2. The applicant has been working as Vice Principal in the respondents Institution. The transfer was challenged on the ground that the applicant is under the category of Due For Retirement within three years from 01.05.2018 to 30.04.2021. It is submitted by him that he had already entered zone of Due For Retirement (DFA) w.e.f. 01.05.2018, therefore he shall not be transferred as per the transfer policy of the Institution. He sought to quash and set aside the transfer order and to retain him in the place where he has been working. The Tribunal by order dated 06.09.2018 suspended the impugned transfer order dated 25.08.2018 in so far as the applicant is concerned. One of his contentions is that the annual transfers should be in the month of April and May but not in the month of September as has been issued in his case. It is also his submission that as he has not completed 10 years of tenure in the present station in the post of Vice Principal his transfer is contrary to the transfer policy guidelines. Making the aforementioned submissions, he sought to quash and set aside the transfer order and issue a direction to the respondents to continue him in the place where he worked before transfer.

3. The respondents filed reply statement opposing the relief prayed for

by the applicant contending as follows :

The applicant who is a Vice Principal in Jawahar Navodaya Vidyalaya has All India transfer liability, his transfer is strictly in accordance with 2012 and 2018 transfer policy of the Institution and therefore the same does not require any interference by the Tribunal. The normal tenure of Vice Principal at a particular station is 5 years and as on the date the applicant has put in 5 years 8 months and 28 days of service at JNV, Chikkaballapura and therefore he can be transferred to any place in India. The transfer policy guidelines applicable to the applicant are of the years 2012, 2015 and 2018. Contending as above the respondents sought to dismiss the OA.

4. Heard Mr.K.Sudhakar Reddy, learned counsel for the applicant and Mr.N.Srinatha Rao, learned standing counsel for the respondents.

5. The point for determination is whether the transfer order dated 25.08.2018 which is impugned in the present OA can be set aside.

6. As per the transfer policy contained in the notification dated 04.04.2012 employees due for retirement within two years as on first January will not be normally considered for transfer and the normal tenure for stay at a particular station prescribed for Vice Principal is 5 years, whereas it is 3 years for Hard and North Eastern Region. The present impugned transfer is effected based on the transfer guidelines of 2018 dated 24.08.2018. As per 2018 guidelines cut

off date for exemption of transfer is that who are due for retirement within 2 years counted from first January of year of annual transfer drive. The transfer guidelines of 2018 are in conformity with the transfer guidelines of 2012. Therefore, in our view the transfer is not in violation of transfer guidelines applicable to the applicant on the date when the impugned transfer order was issued.

7. Before parting with the order it would be necessary to refer the ratio laid down by the Hon'ble Supreme Court in the following judgements relied upon by the learned standing counsel for the respondents :

(1) State of U.P. And Ors. vs. Gobardhan Lal

(AIR 2004 SC 2165)

(2) Mrs. Shipli Bose and Ors. vs. State of Bihar and Ors

(AIR 1991 SC 532)

(3) Anil Kumar vs. Union of India

(C.A.T., Principal Bench in OA.2125/2013)

8. In the above cases the Hon'ble Supreme Court took a consistent view that the transfer policies or the administrative guidelines for regulating transfers, may at best afford an opportunity to the employees to represent the grievances to the superiors, but inspite of the representation, the competent authority can still order transfer of an employee as is found necessitated by exigencies of service. The Hon'ble Supreme Court held that the order of transfer cannot be interfered

with as a matter of course or routine by the Courts or Tribunals, unless the transfer impugned is in violation of statutory rules or prompted by malafides.

9. In the instant case the transfer in our view has not been made in violation of any statutory rule nor was it prompted by malafides. Therefore, the impugned transfer order needs no interference in the present OA.

10. After issuing transfer order to the applicant from JNV, Chikkaballapura, Karnataka to JNV, Banaskantha, Gujarat, a lady Vice Principal was posted in his place at Chikkaballapura. Therefore the respondents did not admit the applicant to duties nor did they pay him his salary. The applicant therefore filed M.A.636/2018 seeking a direction to pay him the salary from the date of his transfer. The respondents opposed the application on the ground that a lady Vice Principal has already joined in his place and therefore he has to join the transferred place and draw the salary from there itself. Here is a case wherein the Tribunal by order dated 06.09.2018 suspended the transfer order passed by the respondents. Therefore in the eye of law the transfer order is not in existence. The applicant in view of the interim order passed by this Tribunal did not join the new place. As by virtue of the interim order passed by this Tribunal the applicant did not report the transferred station, the respondents ought not to have denied him the salary. Therefore the respondents are directed to pay the applicant the salary from the date on which it remained unpaid till the applicant joins in the station to which he has been transferred. The applicant is directed to report to

the new station within a period of two weeks from the date of receipt of a copy of the order.

11. For the foregoing reasons the OA is dismissed and M.A.636/2018 is allowed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER(ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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