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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1763 OF 2003

New Delhi, this the 21st day of August, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

S.P. Goswami,
P.G.T. (Chemistry)
Kendriya Vidyalaya,
Pocket B, House No.46, L.I.G. Flats,
GTB Enclave, Delhi-110092.

.....Applicant

(By Advocate : Shri Anil Srivastava)

Versus

The Commissioner
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.

.....Respondents

(By Advocate : Shri S. Rajappa)

ORDER (ORAL)

The applicant, who is a Post Graduate Teacher (Chemistry) ('PGT (Chem.)' in short), was transferred from Kendriya Vidyalaya, AFS Gurgaon to KV, Kunjaban, Agartala vide order dated 24.11.2000 (Annexure A-1). Aggrieved by that order, the applicant made a representation and also filed OA 755/2001 before this Tribunal, which was dismissed vide order dated 4.7.2002. The applicant thereafter filed a Review Application, being RA No.194/2002. The learned counsel of the applicant states that during the pendency of the said Review Application, the transfer of the applicant was modified vide an order dated 2.5.2003 and the applicant was transferred to KV, Doom Dooma from KV, Kunjaban. In view of this revised transfer order, the applicant withdrew his Review Application. It may be noticed that after the dismissal of the OA No.755/2001 on 4.7.2002, the

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applicant reported for duty at Kunjaban on 17.4.2003. As can be seen from the endorsement on the joining report of the Principal of KV, Kunjaban, Agartala to the effect that "there is no vacancy of PGT - Chemistry at this Kendriya Vidyalaya", the applicant by his representation dated 11.4.2003 (Annexure A-11) brought out the facts to the notice of respondent No.1. Amongst other things, he also requested that he may be allowed to join KVS, Headquarter with immediate effect. He further claimed full salary and other consequential benefits and reimbursement of money spent by him on transfer etc. It is stated by the applicant that no reply to this representation has still been received. The applicant is also not being paid salary in spite of his representation and joining report to the KV, Headquarter dated 19.5.2003.

2. Learned counsel of respondent states that the impugned order dated 3.6.2003/2.7.2003 is not a transfer order but merely a Memorandum directing the applicant to join at KV, Kunjaban. The learned counsel further stated that there may not be a vacancy for the applicant at Kunjaban on 17.4.2003, but if the applicant reports for duty at KV, Kunjaban now, he will be allowed to join. On specific query regarding payment of transfer allowances etc., learned counsel fairly stated that the same will be paid within a week, if the applicant so desired as per rules of Kendriya Vidyalaya Sangathan.



3. After hearing the learned counsel of both parties and after perusal of the materials made available at the time of hearing, it is noticed that controversy is very limited at this stage. The reliefs claimed by the applicant are as follows:-

"a) Quashing and setting aside Order No.F.42 18/PGT/2002-KVS(Estt.II) dated 3.6.2003 whereby the Applicant have been transferred to Kendriya Vidyalaya Kunjaban; and

b) Award cost of this application."

4. If we see the sequence of events, it is very clear that the applicant was transferred on 24.11.2000. However, for personal reasons, he did not report for duty to the place where he was transferred. It is, therefore, possible that the vacancy at the place where he was transferred might have been filled up by that time. It is also rather a bit surprising that even though the Original Application No.755/2001 was dismissed on 4.7.2002, the applicant reported for joining at KV, Kunjaban only on 17.4.2003 when the Review Application filed by him was still pending for final disposal. For this Original Application, it is not necessary to comment or give any observation regarding the period from transfer order dated 24.11.2000 till the applicant reported^{ce} for joining on 17.4.2003. But the facts remain that the applicant was initially transferred to join at KV, Kunjaban by order dated 24.11.2000. When he was asked to report to KV, Doom Dooma by order dated 2.5.2003, may be that because there was no vacancy on 17.4.2003 at Kunjaban and the applicant was asked to join at KV, Doom Dooma

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by order dated 2.5.2003. But now the respondents have restored the original order of transfer dated 24.11.2000 and have asked the applicant to join at KV, Kunjaban. Apparently, there is no justification to interfere with the order of transfer to KV, Kunjaban at this stage, but if the applicant is aggrieved by such an order, he may take legal course, if so advised, after joining the place to which he has been transferred. The only direction can be given that the applicant should be paid transfer allowance which includes advance of fare and transportation of goods and one month's salary as admissible normally to KVS, employees on transfer. Since he was working at KV, AFS Gurgaon, he should approach the Principal of said KV, AFS Gurgaon for advance in terms of the directions contained in the order of transfer dated 24.11.2000. If such a request is made by the applicant, the respondent is directed to ensure that the applicant gets the advance as admissible to him within a period of two weeks so that he can proceed to join new place of posting at KV, Kunjaban.

5. In view of the directions in the proceeding paragraph, this OA is disposed of without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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