

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2322 of 2003

New Delhi, this the 24th day of September, 2003.

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

Dr. C.E. Jeeni,
R/O 70/S-3 to S-4,
Home Teach Appartment,
Bersarai,
New Delhi-16

.....Applicant

(By Advocate : Shri Rajeev Kumar)

Versus

Union of India, through

1. The Secretary,
Ministry of Human Resource Development,
Shastri Bhawan,
New Delhi.
2. The Director,
Kendriya Hindi Sansthan,
Agra.
3. The Director,
Kendriya Hindi Sansthan,
Ministry of Human Resource Development,
Shastri Bhawan,
New Delhi.

.....Respondents

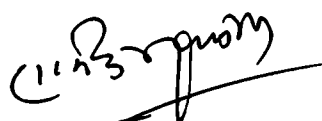
ORDER (ORAL)

By this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has made a request that the respondents be directed to transfer him from Agra to Delhi Kendriya Hindi Sansthan.

2. The applicant was appointed as a Reader in Kendriya Hindi Sansthan at Guwhati in March, 1987. She worked as a Reader in North-East region for a period of five years which, according to the applicant, is a hard station posting. Learned counsel states that the applicant having spent such a long tenure of Hard



posting in North-East region, she should be transferred to a place of her choice for personal reason for which the applicant sought posting at Delhi. Learned counsel also invited attention to the discrimination meted out to her in not transferring her to Delhi. In the year 1991, the applicant was transferred from Shillong to Agra. Aggrieved by that order, the applicant had filed a Civil Suit before the District Judge, Shillong for her choice posting after serving at hard station. After filing the said suit, the respondents changed the applicant's place of posting from Shillong to Delhi vide order dated 14.11.91. Thereafter, the applicant had withdrawn that civil suit. However, the applicant was again transferred to Agra from Shillong on 27.11.91. In 1996, the respondents again transferred the applicant to Delhi from Agra, in September, 1998. Just after two years of posting at Delhi, she had joined as Visiting Professor at Peking University under ICCR exchange programme. When she came back on 30.9.2000, she was allowed to join at Delhi but immediately thereafter, the applicant was again transferred to Agra on 16.10.2000. The allegation of the applicant is that inspite of the assurance given by the respondents that she is likely to be transferred to Delhi whenever any vacancy arises she was not transferred to Delhi as per impugned order dated 27.6.2003. She has not completed the tenure of posting but she was again transferred to Agra. Therefore, it is stated that it is totally a discrimination against the applicant and the



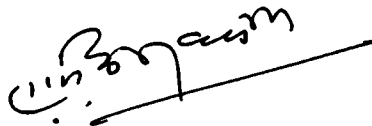
respondents be directed to post the applicant at Delhi.

3. After hearing the learned counsel of the applicant and after perusal of the materials available on record, it is noticed that any violation of any guidelines or principles of natural justice by the respondents have not been made out. However, the facts, as brought out in the application, indicate that there has been some discrimination against the applicant. However, it is felt that the respondents will not be prejudiced if a direction is issued to them to decide her representation along with a copy of this OA to Respondent No.3. It is observed that the applicant had worked at Delhi only for two years. As per paragraph (11) of the guidelines (Annexure-A5), the transfer was to be effected only after completion of ten years. However, the Hon'ble Supreme Court in the case of National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan & Another (2002(1) All India Service Law Journal 86) has held that transfer is an incidence of service and none has right to continue at one place. It is also observed by the Apex Court that "unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals can not interfere with such orders as a matter of routine, as though they are the Appellate Authorities substituting their own decision for that of Management, as against such orders passed in the interest of administrative

Shri Bhagwan

exigencies of service concerned."

4. Considering the observations of the Hon'ble Supreme Court, this Tribunal is not inclined to issue any direction as prayed by the applicant but the allegation of discrimination certainly deserves consideration of the administration. Therefore, the direction, as above, is issued to Respondent No.3 to look into the matter and take a conscious decision by passing a reasoned order under intimation to the applicant within a period of 2 months from the date of receipt of a copy of this order. No order as to costs.



(R.K. UPADHYAYA)
MEMBER (A)

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