

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

GA-2960/03 ✓  
No. 2687/2003

New Delhi, this the 31st day of December, 2003

Hon'ble Shri S.K. Naik, Member(A)

Smt. Harpal Sodhi, TGT, English  
86-A-2, Krishna Nagar  
Safdarjun Enclave, New Delhi .. Applicant  
(Shri S.M. Dalal, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Human Resources Development  
Shastri Bhavan, New Delhi
2. Commissioner, KV Sangathan  
New Delhi
3. S. Modawal  
Assistant Commissioner,  
KV Sangathan, New Delhi
4. Dr. P.S. Pandey, Chairman, VMC  
Deptt. of Chemistry, IIT, Delhi
5. Smt. P. Soni  
Principal, KV, S-2, R.K. Puram  
New Delhi
6. Smt. A.N. Siddique  
Education Officer  
KVS, New Delhi
7. Smt. V.R. Mehta, TGT, English  
KV, S-2, RK Puram, New Delhi .. Respondents
8. Smt. K. Kumar, TGT, KVS, S-II, R. K. Puram, N. Delhi  
(Shri S. Rajappa, Advocate for official respondents  
and Shri Rakesh Lumb, Advocate for R-7)

ORDER (oral)

Shri S.M. Dalal, learned counsel for the applicant has argued at length and has assailed the impugned order transferring the applicant from KV, R.K. Puram to KV, Silwasa on the ground that the transfer order has been passed in utter violation of policy on transfer. It also does not refer to any public interest whereas it has been stated that the transfer has been ordered in public interest. He has further contended that the applicant has made a number of representations against the

For

harassment caused to her by the Principal of the School and that the Assistant Commissioner has conducted some proceedings behind her back. It has been further contended that the transfer is punitive in nature and an interim order be passed allowing the applicant to continue to be <sup>in</sup> Delhi in any other branch of Kendriya Vidyalaya and if necessary be attached to the Hqrs. office of KVS.

2. Respondents have filed their short reply stoutly objecting to the interim relief sought for by the applicant. Shri S.Rajappa, respondents' counsel has referred to the judgement dated 20.7.1999 in OA 1601/1999 in which the question of transfer has been dealt with and it has been held that it is for the competent authority who would be in a better position to judge and consider the public interest in the matter of transfer in an organisation like KVS. He has contended that transfer is an incidence of service and should not be interfered with by the Tribunal and interim relief if granted at this stage will amount to grant of final relief making the application infructuous. He has further contended that the applicant stands relieved from 31st October, 2003 and therefore the question of interim relief is not warranted.

3. I have carefully considered the arguments advanced by the learned counsel for the parties and perused the records of the case. I find that the applicant has filed a representation before the Commissioner, KVS on 3.11.2003 (Annexure-16) in which she has made a request

Back

for cancellation of the transfer order. In the said representation, the main ground taken by her relates to having already served in a difficult area (Dhranghadra, Gujarat) and further that she has been granted permission to pursue her Ph.D course in Fine Arts. However, at the time of arguments before me, the learned counsel for the applicant primarily focused on harassment caused to the applicant by the Principal which has resulted in a bias against her. The counsel has further alleged that the Assistant Commissioner has been swayed by the biased attitude of the Principal. It has been further submitted that the applicant was not afforded any opportunity of being heard even by the Assistant Commissioner.

4. It is not clear as to whether the Assistant Commissioner was deputed by the competent authority to enquire into the matter of the differences the applicant had with her Principal and whether the Assistant Commissioner gave her a patient hearing. Whatever be the ground, the fact remains that the representation of the applicant has not been given due consideration.

5. Under the circumstances, in my view, ends of justice would be duly met if a direction is issued to the Commissioner, KVS to hear the applicant in person and consider her side of the story with reference to the differences that she may have with the Principal of the School and then consider her request for cancellation of her transfer order and pass appropriate orders on merits. I do so accordingly. The applicant may also advance the plea of her inability to comply with the order of transfer <sup>so far as</sup> on medical grounds before the Commissioner, KVS

Dr. J. K. J.

7

with supporting medical evidence and it would be for the Commissioner to consider her request appropriately. This may be done within a period of 10 days from the date of receipt of a copy of this order.

6. OA is disposed of in the aforesaid terms. No order as to costs. Issue DASTI.

S.K. Naik

(S.K. Naik)  
Member(A)

/gtv/