
(2008) 05 OHC CK 0075
In the Orissa High Court
Case No : Writ Petition (C) No. 12290 of 2007

Anita Acharya

APPELLANT

Vs

Kendriya Vidyalaya Sangathan and Others

RESPONDENT

Date of Decision : 07-05-2008

Acts Referred:

Citation : (2008) CLT 63 Supp

Hon'ble Judges : S.C. Parija, J; I.M. Quddusi, J

Bench : Division Bench

Advocate : Ganeswar Rath, S. Mishra, T.K. Praharaj, S. Nayak and B.K. Nayak, for the Appellant; Ashok Mohanty and Hrusikesh Tripathy, P.K. Mohanty, P. Sahu and B. Panigrahi, for the Respondent

Judgement

I.M. Quddusi, J.—This writ petition has been filed against the impugned order dated 21.9.2007 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 249 of 2007 dismissing the same which was filed by the Petitioner challenging her transfer from Kendriya Vidyalaya No. 1, Bhubaneswar to Kendriya Vidyalaya, INS, Chilika.

2. We have heard the learned Counsel for the Petitioner Shri Ganeswar Rath and the learned Counsel for the opp.parties Shri Ashok Mohanty. The Petitioner, who joined as preliminary teacher in Kendriya Vidyalaya Sangathan on 1.11.1985 was posted at Kendriya Vidyalaya No. 1, Bhubaneswar. She remained at Bhubaneswar till 29.10.1999 when she was transferred to Cuttack on promotion as Headmistress. She joined at Cuttack on 29.10.1999. Thereafter, again she was transferred to Kendriya Vidyalaya No. 1, Bhubaneswar on 5.7.2001 on the ground of heart disease of her husband. Thereafter, the impugned order of transfer was passed transferring her from Bhubaneswar to Chilika.

3. One Smt. Anjana Behera, was working as Headmistress of Kendriya Vidyalaya No. II, Bhubaneswar and S.K.Kalsi, opp.party No. 4 was working as Headmistress in INS Chilika Kendriya Vidyalaya. According to the Petitioner, S.K.Kalsi preferred a representation to the competent authority to transfer her to

Bhubaneswar as her spouse was suffering. The authority considering her representation transferred the opp.party No. 4 to Kendriaya Vidyalaya No. II, Bhubaneswar on 15.6.2007 as Headmistress and transferred Mrs. Anjan Behera to INS Chilika Kendriya Vidyalaya. In order to accommodate and favour Anjan Behera, who was transferred only in the month of June, 2007 to Chilika, the authorities retransferred her to Kendriya Vidyalaya No. II, Bhubaneswar and the opp.party No. 4 to Kendriya Vidyalaya No. 1 in place of Petitioner and the Petitioner was transferred to INS Chilka Kendriya Vidyalaya on 7.8.2007.

4. In the counter affidavit, it has been stated that Petitioner's husband though was suffering from heart diseases from 1992, but he had not undergone any open-heart surgery and the contention of the Petitioner that she was transferred because of her husband undergoing bye-pass surgery is not correct. She was transferred at her own request. The Petitioner applied for her transfer to K.V. No. I, Bhubaneswar and though the same was considered by the KVS Headquarters, New Delhi and as there was No. clear vacancy of Headmistress at K.V. No. I, Bhubaneswar, the transfer order could not be implemented till 31.3.2001. One Smt. P.M. Patanaik, Headmaster at K.V. No. I, Bhubaneswar was holding the post of Headmaster at K.V. No. 1, Bhubaneswar till 31.3.2001 and after her retirement a fresh transfer order was issued by the Assistant Commissioner, KVS,RO, Bhubaneswar dated 5.7.2001 in pursuance of which the Petitioner was relieved. She was due for annual transfer as she had completed 3 years of service in a particular station. Opp.Party No. 4, S.K. Kalsi who was serving in INS,Chilika and was suffering from cancer made a request for transfer to Bhubaneswar in terms of the transfer guidelines and she -fell under priority category for grant of request transfer as defined in Clause 2(xii) of the new transfer guidelines effective from 14.3.2007 and since S.K. Kalsi, Opp.Party No. 4 requested for transfer to Bhubaneswar, the Petitioner, who was holding the same rank of Headmistress as that of S.K.Kalsi having the longest stay at Bhubaneswar, was transferred for creating an available vacancy to accommodate S.K.Kalsi.

5. The history of service of the Petitioner shows that she was appointed on 1.11.1985 and remained at Bhubaneswar till 29.10.1999 and from there she was transferred to Cuttack on promotion on that date and thereafter again transferred to Bhubaneswar. Therefore, throughout her service, the Petitioner mostly remained at Bhubaneswar and was having the longest stay and, therefore, in our opinion, No. interference is warranted in the impugned order passed by the Tribunal. However, this will not debar the opp. party to consider the representation of the Petitioner and take a fresh decision in accordance with the transfer policy regarding transfer of the Petitioner.

The writ petition is disposed of accordingly.

S.C. Parija, J.

6. I agree.