

(2014) 09 MAD CK 0145

In the Madras High Court

Case No : Writ Petition No. 24917 of 2014 and M.P. No. 1 of 2014

A.R. Kohila

APPELLANT

Vs

The Commissioner Kendriya Vidyalaya

RESPONDENT

Date of Decision : 15-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0145

Hon'ble Judges : Satish K. Agnihotri, J; M.M. Sundresh, J

Bench : Division Bench

Judgement

1. The petitioner, working as PGT (Geography) Teacher in Kendriya Vidyalaya, Narimedu, Madurai, was transferred to Kendriya Vidyalaya, Pangode Trivandrum, by order dated 04.06.2013. Being aggrieved by the said order, the petitioner preferred an Original Application, being O.A. No. 806 of 2013, before the sixth respondent-Tribunal, challenging the legality of the same.

2. The contention of the petitioner before the Tribunal was that the first respondent was the competent authority to pass an order of transfer and as such, the impugned order passed by the Administrative Officer, Kendriya Vidyalaya Sangathan, (KVS for short), New Delhi (the third respondent), was without authority of law. Secondly, the impugned transfer was contrary to the transfer guidelines, as the petitioner has got four displacement count, whereas, the fifth respondent has got thirty points.

3. The aforesaid Original Application was contested by the official respondents on the ground that the impugned order was passed with the approval of the first respondent and also in accordance with paragraph no. 12 of the transfer guidelines, which was effective from 01.04.2011. It was further contended that under the provision of Article 71 of the Education Code, the KVS employees are liable to be transferred to any KVS throughout India.

4. According to the fifth respondent, under paragraph no. 11 (1) and 11(8) of the KVS transfer guidelines, her displacement count was calculated as 10.

5. The Tribunal, after having considered all the aspects of the matter, held as under:

11. The applicant has been working at K.V. Madurai since 2005. Being the seniormost person in that station, she was transferred and in her place, the 5th respondent has been posted by the transfer order dated 4.6.2013 which is impugned in this OA. The contention raised by the applicant that her transfer order has been issued by the third respondent who is not the competent authority is not found to be true as it is very clearly stated in the impugned order itself that the order issues with the approval of the competent authority. It has also been brought out that the applicant has been relieved following the transfer order and a substitute has also joined at KV Madurai on 11.6.2013 whereas, the impugned order of stay has been granted in this case on 19.6.2013. This interim order of stay has been apparently taken by suppressing the above facts, which is reprehensible. The contention is regarding the displacement count and the transfer counts are not found to be tenable as the 5th respondent has got 35 transfer counts. Moreover, it is clear from the transfer guidelines that the 1st respondent has the inherent power to transfer an employees from one station to another and in this case, that power has been exercised by the 1st respondent quite properly considering the fact that the applicant has already spent 9 years at the same station. We find that the contention raised in the OA are devoid of merit and the OA is liable to be dismissed. Accordingly, the OA is dismissed.

6. We have heard the learned counsel for the petitioner and perused the pleadings and documents appended to the writ petition.

7. Admittedly, the transfer order was approved by the first respondent which is indicated in the transfer order itself. The transfer order was passed in administrative exigency and there is no allegation of mala fides and infringement of any statutory rules. Needless to state, the transfer guidelines are only guidance for the purpose of placing the teachers in any administrative exigency. The petitioner has failed to establish any mala fides and/or any infringement of statutory rules. It was held that the petitioner was the senior-most person in that station and as such, she was transferred to other place. We do not find any infirmity, illegality or irregularity warranting interference.

8. In view of the foregoing, the writ petition fails and it is, accordingly, dismissed. Connected Miscellaneous Petition is closed. No costs.