
(1987) 10 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5723 of 1987

Bhawesh Dhankar

APPELLANT

Vs

Commissioner, Central Schools, New Delhi and Others

RESPONDENT

Date of Decision : 09-10-1987

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 226

Citation : AIR 1989 P&H 38

Hon'ble Judges : M.R. Agnihotri, J

Bench : Single Bench

Advocate : I.S. Balhara, for the Appellant; Jaishree Anand, for the Respondent

Final Decision : Allowed

Judgement

M.R. Agnihotri, J.—Bhawesh Dhankar (minor) has approached this Court through his natural guardian mother, Smt. Murti Dhankar, Instructor in Hindi. Air Force Station 8th Wing, Adampur, District Jutlundur, for the issuance of a writ of mandamus commanding the Commissioner and Assistant Commissioner of Central Schools, and the Principals, Central School Nos. I and II, Adampur, to admit the petitioner to the 1st Standard, being the son of a Central Government employee posted at the Air Force Station, Adampur. The petitioner is five years" old and his mother has been working as Hindi Instructor for the last about three years at the Air Force Station School at Adampur.

2. According to the petitioner, there are about two hundred seats available for admission to the Ist Standard but only 162 students have so far been admitted and 39 seats are still lying vacant against which admissions have yet to be made. According to the guidelines for admission to the Central Schools (Kendriya Vidyalayas) issued by the Board of Governors of the Kendriya Vidyalaya Sangathan on 27th Mar. 1987, as revised and modified on 17th June, 1987 (Ann. R-2), admission priorities in the Kendriya Vidyalayas have been provided asunder : --

"Kendriya Vidyalayas in Defence and Civil Sectors:--

- i) Children of transferable Central Govt. employees including defence personnel, "CRPF/BSF/SPG/BRTF/CISF/NSG, employees of All India Services and Indian Foreign Service, children and dependent grand-children of M.Ps., children of KVS employees and children of transferable Central Govt. employees, including Defence Personnel who die in harness.
- ii) Children of transferable employees of autonomous bodies and Public Sector Undertakings fully financed by Central Government.
- iii) Children of Non-transferable Central Government/Central Public Sector Undertaking employees.
- iv) Children of other floating population which includes population desirous of joining the pattern of studies adopted in Kendriya Vidyalayas."

In the revised instructions dt. 17th June, 1987, under para 5, reservation for the children of transferable employees belonging to Scheduled Castes/ Scheduled Tribes has been provided in every Kendriya Vidyalaya for fresh admission to the extent of 15 per cent and 7 1/2 per cent, respectively. However, it has further been provided as under : --

".....In the event of sufficient number of Scheduled Caste/Scheduled Tribe children of transferable employees of the Central Government Autonomous bodies and Public Sector Undertakings, fully financed by the Central Government, and of other priority categories not being available to complete the reserved quotas, the vacancies will be made available to general category of children. These reservations will apply only to seats filled by fresh admission in the beginning of the academic session."

In sub-para (i) of the Explanation to Para II, the term "Transferable Central Govt. Employees" has been defined to mean, "employees who have undergone at least one transfer during the preceding 7 years". In sub-para (iv), it has further been clarified that "the number of transfers in the past 7 years shall not be counted for children of Central Govt. employees who die in harness, SPG, NSG, KVS, MPS children and their dependents. The term "dependents" would mean the MP's own grand-children who are staying with the MP either at his/her house in Delhi or at his/her local or constituency address and whose parents total income does not exceed Rs. twelve thousand (Rs. 12,000/) per annum".

3. Admittedly, petitioner Bhawesh Dhankar's mother Mrs. Murti Dhankar, has been serving as Hindi Instructor with effect from 12th Oct. 1984, and her post is transferable throughout India as per exigencies of service. It has further been admitted that the application of the petitioner for admission to the Air Force Station School at Adampur was received in time and there is no other recognised school either at Adampur or in the vicinity of the Air Force Station, where the five years" old petitioner could be got admitted for education. Despite all this, the respondents have not admitted the petitioner to any of the two Air Force Station

Schools at Adampur for the reason that even though the post held by the mother of the petitioner may be a transferable one, yet she has not undergone at least one transfer during the preceding seven years. The ground on which admission has been refused to the petitioner is wholly non-existent as the total service of the petitioner's mother is hardly three years which would mean that unless she puts in service for seven years and is subjected to transfer at least once during that period, she cannot have her son admitted in a Kendriya Vidyalaya, no matter she may herself be an Instructor in Hindi in the Air Force Station School at Adampur itself. Moreover, the transfer of a Central Government employee is not within the control of the employee and it is the exclusive discretion of the Central Government or its various authorities to consider as to whether a particular employee has to be transferred from one place to another in the exigency of administration or not. Therefore, denying admission to the petitioner on the ground that though his mother has put in hardly three years' service while serving on a transferable post, yet she does not fall within the definition of "transferable Central Government employee" as she has not undergone at least one transfer during the preceding seven years, would be wholly arbitrary, unjust and leading to perverse results.

4. At the time of hearing of the case, the Principal of one of the two Air Force Station Schools at Adampur (respondents 3 and 4), who happened to be present in the Court, stated before me that though there was no seat left in the general category against which the petitioner could be admitted, yet a number of seats belonging to the quota reserved for the children of transferable employees belonging to Scheduled Castes/Scheduled Tribes were still lying vacant. According to the learned Principal, some of the seats have already been diverted to the general category after obtaining approval of respondent No. 1, that is, the Commissioner, Central Schools New Delhi, and many more seats are still lying vacant for the diversion of which no approval or direction has been received from respondent No. 1 so far.

5. Having heard the learned counsel for the parties and after examining their pleadings and the material available on record, I am of the considered view that denial of admission to the petitioner would be wholly unfair and unjust as his claim is well-merited.

6. Consequently, I allow this writ petition and issue a writ of mandamus commanding the respondents to admit Bhawesh Dhankar petitioner in either of the two Air Force Station Schools at Adampur, to the Ist Standard in the current session, forthwith. There shall be no order as to costs.