
(2022) 12 CAT CK 0010
In the Central Administrative Tribunal
Case No : Original Application No. 844 Of 2022

Gitanjali Rajpoot

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 09-12-2022

Acts Referred:

Citation : (2022) 12 CAT CK 0010

Hon'ble Judges : Mohan Pyare, Member (A)

Bench : Single Bench

Advocate : Ram Milan Mishra, B.P. Singh

Final Decision : Dismissed

Judgement

Mohan Pyare, Member (A)

1. The applicant has filed the present Original Application against the transfer order dated 13.09.2022 passed by respondent no.3. By means of this O.A., the applicant has sought the following reliefs:

" I) issue an order or direction in the nature of Certiorari quashing the impugned transfer order dated 13.09.2022 passed by respondent No.3, Asst. Commissioner, (Estt.2/3), Kendriya Vidyalaya, Sangathan transferring the applicant from KV No.2, Cantt. Jhansi to KV, Gauribidnur, Karnataka having long distance of 1500 Km.

II) issue an order or direction in suitable nature of directing the respondents to permit the applicant to continue with the KV No.2, Cantt. Jhansi, U.P.

III) Issue any other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

IV) award cost of the application to the applicants."

2. After hearing the parties the stay application had been rejected by this Tribunal on 28.09.2022.

3. The brief facts of the case are that the applicant was initially appointed on 30.10.2008 and posted at KV-No.1 AFS, Uttar Pradesh. On 25.05.2010 the applicant was posted in K.V.-2 Cantt. Jhansi on spouse ground as her husband namely Sunil Kumar is working under state government as Pharmacist in District Jhansi. The husband of the applicant is suffering with several diseases pertaining to respiratory system such as asthma and his treatment is going on at AIIMS, New Delhi which requires deep care and except to the applicant no one is available to care at home. The applicant is aged about 54 years old and going to retire on 31.12.2027.

4. During the year 2021 respondent No.2 issued guidelines of transfer of employees of KVS proposing two types of transfer - 1. Administrative transfer and 2. Request transfer. Request transfer has been suspended during academic session 2022-23 and a notice has been issued on 12.09.2022 for the administrative transfer only for the purpose of rationalisation and redistribution. On 13.09.2022, the applicant was transferred to KV, Gauribidnur, Karnataka. It is stated that the above transfer is illegal, arbitrary, unjustified and in violation of several norms, government orders and policies relating to transfer of KV staff as the applicant was not provided any opportunity to put her grievances before passing this transfer order.

5. The DoPT Memorandum dated 30.09.2009 has been cited showing the transfer in violation of para 4(vii) which states as below:

“(vii) Where one spouse is employed under the Central Govt. and the other spouse is employed under the state Govt:-

–The spouse employed under the Central Govt. may apply to the competent authority and the competent authority may post the said officer to the station or if there is no post in that station to the State where the other spouse is posted.”

The order is during mid session and no opportunity or time has been provided to employees to raise their difficulties/ grievances.

6. In the counter affidavit the respondent has mentioned that the applicant holds a transferable post and is liable to be transferred anywhere in India. It is for the appropriate authority to decide that which employee should be posted to which place. The above transfer has been effected based on administrative exigency. It is further stated that the aggrieved employees may approach the competent authority for redressal of their grievances. It is submitted that the above transfer has been done honestly, bonafidely and reasonably in public interest. Transfer guidelines of KVS starts with the objective that , “KVS shall strive to maintain equitable distribution of its employees across all locations to ensure efficient functioning of the organization and optimize job satisfaction amongst employees. All employees are liable to be transferred anywhere in India at any point of time and transfer to a desired location can't be claimed as a matter of right. While effecting transfers, the organizational interest shall be given uppermost consideration and that the problems and constraints of employee shall remain

subservient.” and that “KVS has identified around 237 KVs having less than 50 % of regular teaching staff on its rolls and about 481 KVs having 80% or more regular reaching staff on its rolls in all over India on the basis of available vacancy.”

7. Station seniority has been taken as a criteria during this transfer. On the basis of above discussions, respondents have pleaded to pass appropriate order.

8. In their rejoinder, the applicant has mentioned and pressed almost the same points which have been already given in O.A. citing the inconvenience due to this transfer as well as the old age of the applicant as already mentioned. The applicant has also enclosed the letter dated 23.09.2022 mentioning that certain transferred teachers have already been given relief by the competent authority. Counsel for the applicant has further pressed that the transfer order is against the principle of natural justice and not based upon any objectivity, transparency and reasonableness and against the statutory provisions also and smacks with malafide in law therefore, present original application has merit and liable to be allowed with cost.

9. After listening to the parties and on perusal of available records, this Tribunal comes to the conclusion that the applicant has been transferred creating personal inconveniences to her on the ground of administrative exigencies and for the purpose of redistribution and rationalization of teaching staff by KVS. As a teacher working in Kendriya Vidyalaya is transferable to anywhere in India and public interest being above personal inconveniences, hence, the Original Application is dismissed with a liberty to the applicant to file a representation before the competent authority citing their grievances and competent authority shall sympathetically look into the representation and pass a reasoned and speaking order.

10. With the above directions, O.A./844/2022 is dismissed.

11. No order as to costs.