

(2024) 06 CAT CK 0010

In the Central Administrative Tribunal

Case No : Original Application No. 2514 Of 2024

Rajeev Tripathi

APPELLANT

Vs

Kendriya Vidyalaya Sangathan Through The Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg, New
Delhi.-16 & Ors.

RESPONDENT

Date of Decision : 25-06-2024

Acts Referred:

Citation : (2024) 06 CAT CK 0010

Hon'ble Judges : Dr. Chhabilendra Roul, Member (A)

Bench : Single Bench

Advocate : Yogesh Sharma, S. Rajappa, R Gowrishankar, G. Dhiraysri

Final Decision : Disposed Of

Judgement

Dr. ChhabilendraRoul, Member (A)

1. The present application has been filed by the applicant seeking the following relief:

(i) pass an order declaring to effect that the whole action of the respondents not allowing the applicant to submit his online application form as per transfer policy, in respect of Annual Transfer 2024 is totally illegal, arbitrary and discriminatory and consequently, pass an order of set- asiding the online remarks (Annex A/1) and pass an order directing the respondents to consider the request of the applicant for his Annual Transfer 20024 along with other employees as per transfer policy being treating the applicant in LTR category.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to consider the request of the applicant for his transfer on LTR ground as per KVS Transfer Policy 2023 from present station to any other station by inviting and by considering the five choice stations from the applicant.

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be

granted to the applicant along with the costs of litigation.

2. Issue notice. Learned counsel for the respondents who appears on advance service accepts notice.

3. Learned counsel for the applicant presses for consideration of Interim Relief which reads as follows:

Pending final disposal of the main OA the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to provisionally allowing the applicant to submit his Annual transfer application online or Physically and consider the same as per transfer policy along with others provisionally, otherwise great prejudice will be caused and all available posts will be filled up and 3rd party rights will be created. Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant.

4. Learned counsel for the applicant states that the applicant is seeking remedy as per the Transfer Policy-2023 (Annexure A-8). He states that the applicant falls under the category of Less than Three years to Retire (LTR) which is mentioned under the Definitions of the said Transfer Policy and states that this is the category of the person whose retirement is due within the next three years as on 30th June of the year. He states that the applicant will be retiring on 30.06.2027.

5. Learned counsel for the applicant further states that the applicant applied online for his choice of station. However, the online system of the respondents did not accept this request and it showed the following message:

"Employee is restricted and not eligible to proceed further with transfer application. In case of any clarifications, please contact your controlling officer."

6. Learned counsel for the applicant states that the applicant's case comes under the exception as he comes under the category of LTR and the condition of tenure does not apply. He draws attention Clause 3 (v) of the Transfer Policy which reads as under:

3 (v) To ensure stability of teaching learning process, an employee will be eligible to apply for transfer after completion of tenure except cases covered under PwD/MDG/DFP/LTR which will be considered irrespective of tenure during the Annual Transfer process.

7. Learned counsel for the respondents refers to the transfer order dated 30.09.2022 where the applicant was transferred from Lucknow to Tamakuru and as per the Supreme Court decision dated 19.03.2024, the applicant had an opportunity of submitting three choices. Instead, the applicant has prayed to seek remedy under LTR category now.

8. Learned counsel for the applicant states that the applicant has neither challenged his transfer order dated 13.09.2022 nor has he challenged any action by the respondents in pursuance to the said Supreme Court Order. He states that the applicant is only seeking relief as LTR category as per the Transfer Policy

2023. He states that the applicant would be satisfied if a direction is issued to the respondents to consider the case of the applicant under LTR category as per the extant policy in the transfer process which will be completed in June 2024.

9. Accordingly, the applicant is directed to prefer a fresh representation within two days seeking relaxation under LTR category and the respondents shall consider the same within a period of two weeks from the date of receipt of the representation.

10. The OA stands disposed of in terms of the aforesaid directions. It is made clear that the Tribunal has not entered into the merits of the case.

11. No order as to costs.

Order Dasti.