
(2022) 12 CAT CK 0014

In the Central Administrative Tribunal

Case No : Original Application No. 330, 00845 Of 2022

Sita Singh Chauhan

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 09-12-2022

Acts Referred:

Citation : (2022) 12 CAT CK 0014

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

Bench : Single Bench

Advocate : Ram Milan Mishra, Bharat Pratap Singh

Final Decision : Dismissed

Judgement

Mohan Pyare, Member (A)

1. Shri Ram Milan Mishra, learned counsel for the applicant and Shri Bharat Pratap Singh, learned counsel for the respondents are present.

2. This OA has been filed by Sita Singh W/o Sudhanshu Kumar Dixit against her transfer order dated 13.09.2022 passed by respondent No.3. By means of this OA, 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-1, Cantt. Jhansi to KV-Rairangpur, Udisa having long distance of 1200 km.

(ii) Issue an order or direction in suitable nature of directing the respondents to permit the applicant to continue with the KV No.1, 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."

3. The interim relief requested was rejected by this Tribunal against which the applicant has approached before the Hon'ble High Court in Writ-A No.17215 of 2022. The Hon'ble High Court has given the following directions :-

“(i) The respondents before the Central Administrative Tribunal, Allahabad shall file their reply within 10 days from today.

(ii) The applicant/petitioner shall file rejoinder affidavit before the Central Administrative Tribunal, Allahabad within four days thereafter.

(iii) The Central Administrative Tribunal, Allahabad shall fix a date for hearing in the 3rd week of November, 2022 for hearing/disposal of the aforesaid original application.

(iv) The aforesaid original application shall be decided by the Central Administrative Tribunal, Allahabad in accordance with law, expeditiously, preferably by 09.12.2022 without granting any unnecessary adjournment to either of the parties.

With the aforesaid observation the writ petition is disposed of.”

4. In the affidavit, submitted along with the prayer the applicant has mentioned the following grounds in favour of her claim. That the applicant is Trained Graduate Teacher (TGT), Hindi in Kendriya Vidyalaya (KV)-1 Cantt. Jhansi, who was initially appointed and posted at Kendriya Vidyalaya No.II Itanagar, Arunachal Pradesh on 27.08.2003. On 26.07.2006, the applicant was transferred to present place and working till this transfer order. The spouse of the applicant is working in Jawahar Lal Nehru Inter College, Udan, Jhansi as a regular teacher. The daughter of the applicant namely Manu Manasvi is a student of Class 10th and studying in applicant's institution. There are 03 TGT teachers, out of that 02 have been transferred therefore only one teacher remains available to teach more than 600 students in several Sections of Class 6th to 10th. During year 2021, the respondent No.2 issued new guidelines for transfer of employees of KVs proposing two types of transfer 1)Administrative Transfer 2) Request Transfer.

5. For the academic session 2022-23 regular transfer of Kendriya Vidyalaya teachers has been suspended and notice has been issued for administrative transfer for the purpose of rationalization and redistribution of teachers on 12.09.2022.

6. On 13.09.2022, the order transferring 545 TGTs including the applicant has been issued transferring her from KV No.1 Cantt. Jhansi to KV, Rairangpur, Udaipur at a distance of 1200 km. It is submitted by the applicant that the impugned transfer is illegal, arbitrary and unjustified as the same has been done in violation of several norms, Govt. order and policies relating to transfer of KV staffs. The applicant has not been provided any opportunity to substantiate her position. The applicant has cited DOP&T OM dated 30.09.2009 citing relevance of para 04 (vii) which reads as under :-

" 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 applicant has also annexed the format citing her daughter who is studying in Class -10th.

7. In the counter affidavit on behalf of the respondents it is submitted that the transfer of the applicant is based on the administrative exigency and taking into consideration the Public interest. The applicant holds a transferable post and is liable to be transferred anywhere in India and the applicant has no vested right to remain posted at one place or the other. There is no mala-fide or violation of any statutory provisions in this transfer order. It is further submitted that transfer policies afford an opportunity to the employees to approach the higher authorities for redressal of their grievances. Citing various Court's judgment, he has concluded that inconvenience and hardship of an employee comes within the purview of the administrator and is open to the employee to take it up with the competent authority. It is further submitted by the learned counsel for the respondents that due to Covid heavy imbalance of teachers in the KVs has been created which is affecting learning outcome of students. The rationalization of teachers and redistribution of existing teaching staff have been effected to address this imbalance mainly due to this pandemic. For providing balance regarding outcome in all these Schools of the Sangathan the above transfer has been made keeping equitable distribution to ensure effective functioning of the organization. Transfer to a desired location is not a matter of right and a guidelines of KVs states 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 cannot be claimed as a matter of right. While effecting transfers, the organization interest shall be given uppermost consideration and that the problems and constraints of employee shall remain subservient.

The 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 teaching staff on its rolls in all over India on the basis of available vacancy."

8. Most of the teachers who have been transferred in the above order have been in one Station for more than 10 years. Out of total teaching staffs of 36565 in position, only 1455 transfers have been effected which is only around 4% only and based on the above discussions the respondents have requested to pass a proper order.

9. In the rejoinder affidavit to the counter affidavit, the applicant has again stressed that the present imbalance of strength of teaching faculty in some of the KVs is the result of wrong policy of KVS and transfer effected during the year

2021. He has also stated that the applicant is not the Station senior but many teachers are senior to her in that School who are not transferred. It is not mentioned here whether they belong to same subject or different subjects. In Annexure -2, the applicant has annexed the proceeding of KVS, Headquarter dated 27.08.2003 in which certain reliefs have been given to transferred teachers by the organisation.

10. Heard learned counsel for the parties and perused the record.

11. This Tribunal comes to the conclusion that the applicant has been transferred creating personal inconveniences to her on the ground of administrative exigency and for the purpose of redistribution and rationalization of teaching staff. As teacher working in KVS is transferable to anywhere in India and public interest being above the personal inconvenience. Hence, the OA is dismissed with a liberty to the applicant to file their representation before the competent authority citing their grievances and competent authority shall sympathetically look into the representation and pass the reasoned and speaking order. No order as to costs.