

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

**Original Applications No. 347/2022, 348/2022,
350/2022, 352/2022, 353/2022, 355/2022, 356/2022,
358/2022, 361/2022, 364/2022, 366/2022, 367/2022,
369/2022 & 421/2022.**

Dated this the 16th day of January, 2023

Reserved on: 01.12.2022

Pronounced on: 16.01.2023



CORAM:

Hon'ble Sh. Rameshwar Vyas, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)

OA NO 347/2022

1. Kabita Sinha
Wife of Asim Sinha
Aged about 55 years
Residing at: 5, Aadit Bungalows
Opposite Heritage Home
Daskroi, Ahmedabad 380 059.
Working as: Primary Teacher
Kendriya Vidyalaya No.1, Shahibaugh,
M.R. Campus, Ahmedabad 380 001.

...Applicant

(By Advocate Mr. A L Sharma)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner

Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

5. Principal
Kendriya Vidyalaya No.1, Shahibaugh,
M.R. Campus, Ahmedabad 380 001.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 348/2022



1. Mr. Vijay Mesariya,
S/o Ganpatbhai Mesariya
Aged 37 years,
Working as PRT Teacher,
Residing at: 20, Devangi Bungalows
Near Satyam Hospital, Chandkheda,
Ahmedabad 382 424.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 350/2022

1. Mrs. Vibha Kaushik Makwana,
W/o Kaushik Makwana,
Aged 38 years,
Working as PRT Teacher,
Residing at: Arya Shree 2B Flat No. 403,
Opp. Jivraj Park Gate,
b/h Speedwell Party Plot,
Nana Mauva, Rajkot, Gujarat 360 005.

...Applicant



(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar,
Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 352/2022

1. Mrs. Vaishali Himanshu Kapadiya,
Wife of Himanshu Kapadiya
Aged 36 years,
Residing at 19/201, Monalisa Residency,
Manjalpur, Vadodara 390 009.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs



1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 353/2022

1. Mrs. Hansa Vaghela,
Wife of Rameshbhai G Vaghela,
Aged 55 years
Residing at 643 Sharad Nagar,
Tarsali, Vadodara 390 009.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.



...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 355/2022

1. Mrs. Tanaz Kapadia
Wife of Manish Kumar,
Aged 37 years,
Residing at B-25/34, Phase II,
ONGC Nagar, Vesu, Surat 394 518

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.

3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)



OA NO 356/2022

1. Mrs. Vilas Khemchandbhai Shah,
W/o Jitendrakumar Chauhan,
Aged 37 years,
Working as PRT Teacher,
Residing at: C/76 Darshanam Residency,
New Sayajipura, Ajwa Road, Vadodara – 390 019.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.
5. Principal,
Kendriya Vidyalaya No.5,

AFS, Darjipura
Vadodara, Gujarat – 382 042.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 358/2022

1. Mrs. Amibahen Trikambhai Vara,
W/o of Tikambhai Vara,
Aged 37 years,
Residing at 18, Varundavan Park-2,
Opp. Akruti Nagar, Jitodia Road,
Anand 388 001.

...Applicant



(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.
5. Principal,
KV AFS, Darjipura,
Vadodara 391 440.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 361/2022

1. Mrs. Sunita Lasker,
Wife of Pramod Kumar,
Aged 48 years,
Residing at 35, Radhe Kunj Bungalows
Sector 2 Behind Wide Angle Multiplex
Mehsana 384 022.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs



1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 364/2022

1. Mr. Pranavkumar Bhatt,
S/o Bhanushankar Bhatt,
Aged 53 years,
Working as PRT Teacher,
Residing: Behind Jain Derashar,
Opp. Indrapastha Flats,
Primary School Road, Mehtapura,
Himmatnagar – 383 001.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.
5. Principal,
Kendriya Vidyalaya, Himmatnagar,
Gujarat – 383 001.



...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 366/2022

1. Mrs. Suman Bisht,
W/o Jitender Singh Bisht,
Aged 52 years,
Working as PRT Teacher,
Residing at: 202-Shivam Tower
S-cube Residency off O.P Road
Vadodara, Gujarat 390 020.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.



2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.
5. Principal,
Kendriya Vidyalaya No.3,
AFS, Makarpura, Vadodara,
Gujarat – 390 014.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 367/2022

1. Mrs. Niru Sangada,
W/o Bakulkumar Punabhai Damor,
Aged 35 years,
Working as PRT Teacher,
Residing at: T-50, Aashray Residency,
Krishna Park Lane,
Ajwa Waghodia Ring Road,
Vadodara, Gujarat 390 019.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.

3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.
5. Principal
Kendriya Vidyalaya No.1,
Harni Road, Vadodara, Gujarat – 390 022.



...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 369/2022

1. Dipmala Patel,
Wife of Alpesh B Patel,
Aged 34 years,
Residing at 1/93 Sai Aashish Shambhuji Ni Wadi,
Umaragam, Surat 395 007.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,

Sector 30, Gandhinagar, Gujarat 382 030.

5. The Principal,
KV No.1, Ichhanath, Surat, 395 007.

...Respondents

(By Advocate Mr. Shashikant Gade)

OA NO 421/2022

1. Mrs. Dipti Kumari Rathod,
W/o Prashant Sarolia,
Age 36 years,
Working as PRT Teacher,
Residing at: A-11 Surbhi Bungalows,
Near Chhani Overbridge, Chhani,
Vadodara – Gujarat – 391 740.



...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Kendriya Vidyalaya Sangathan,
Notice to be served through its
Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
2. Joint Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.
4. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
Ahmedabad Regional Office,
Sector 30, Gandhinagar, Gujarat 382 030.

...Respondents

(By Advocate Mr. Shashikant Gade)

ORDER

Per: Hon'ble Justice Shri Rameshwar Vyas, Member (J)

1. The Applicants who are primary school teachers of the Kendriya Vidyalaya Sangathan (KVS), have filed separate OAs assailing the same transfer order dated 16.09.2022 (Annexure A/1) issued by the Assistant Commission i.e., respondent no.3 herein transferring them to distant places in India. Since grievance of the applicants are similar in nature against the common transfer order, all the Original Applications are being decided by the common order.



2. The brief facts of the case are as under: -
 - 2.1 Kendriya Vidyalaya Sangathan is an autonomous organization under the Ministry of Education, Department of School Education and Literacy, Government of India. It has its headquarter office at New Delhi and 25 regional offices are functioning all over the country including 3 abroad.
 - 2.2 KVS has framed transfer guidelines of 2021 for the teachers upto PGT and others upto Assistant Section Officer. Vide Notice dated 12.09.2022 (Annexure A/3) Joint Commissioner informed that with the approval of the competent authority, the annual transfer process of KVS has been suspended for the current academic session (2022-23). Further, only administrative transfer will be effected for the purpose of re-distribution and rationalisation of teaching staff. All the provisions given in Para 6 of the transfer guidelines 2021 are kept in abeyance. After issuing this notice, the impugned transfer order has been issued on 16.09.2022, whereby total 717 primary teachers have been transferred from one place to another place.
3. The grounds raised by the applicantst may be summarised as follows: -
 - 3.1 The first and foremost ground raised by the applicants is regarding competence of the officer who passed the order while keeping in abeyance the provisions given in Para - 6 of the Transfer Guidelines 2021. As per the submissions of the applicant the transfer guidelines have been issued by the Board of Governance of the KVS which cannot be ignored by the Commissioner of KVS.

3.2 Before passing the impugned transfer order the applicants have not been given opportunity to file their option of their choice places. Had there been a notice regarding the transfer, the applicant could have opted the nearby schools where they could have been easily accommodated.

3.3 The impugned transfer order is also against the Office Memorandum dated 30th September, 2009, wherein posting of the husband and wife who are in government service at the same station had been directed to be made if posts are available. The respondents while issuing the transfer order have not followed these guidelines of the Government.



3.4 The applicants are the primary teacher of KVS and except applicant of OA No. 348/2022 and OA No. 364/2022, are women who have been transferred from West to South at the places situated about 1000-2000 km away from their present stations. At those places the applicants shall be unable to teach the students in their mother tongue/local language whereas Para 4.11 of National Education Policy 2020 provides that wherever possible, the medium of instruction until grade – V, and preferably till grade – 8 and beyond will be the home language/mother tongue/local language/regional language. Thereafter, the home language/local language shall continue to be taught as language wherever possible.

3.5 It has also been made a ground by the applicants that the impugned order has been issued in the mid-term which is also against the National Education Policy 2020. As per the National Education Policy mass transfer has been deprecated. Mass transfer is also not in the interest of the students. It has been averred that in most of the cases no substitute has been posted in the place of applicants. In some of the applications, the ground of their children studying in secondary and higher secondary has been raised. In some of the applications personal difficulties like difficulties in caring small children, ailment of husband, old parents and in-laws of the applicants have also been raised.

3.6 It has also made one of the grounds that impugned orders have been passed without granting any joining time. No definite criteria have been followed while passing the impugned order. Respondents have not

understood the correct meaning of rationalisation while passing the impugned order. It has been averred that spouse of the applicants except the applicant of OA in 369/2022 are either posted in KVS or Central Government Service or Public Sector Undertakings or in State Government Services.

3.7 On the above grounds the applicants have challenged the transfer order dated 16.09.2022 and prayed for quashing and setting aside the impugned order qua the applicants.



4. In reply filed by the respondents it has been averred that transfer orders issued have been based on administrative exigencies. Applicants hold transferrable post and are liable to be transferred anywhere in India and they have no vested right to remain posted at one place. Transfer orders should ordinarily not be interfered with in the absence of malafides or violation of any statutory provision. It is the respondent to decide the transfer issue.

4.1 It is further averred that even if order of transfer is not made in violation of administrative guidelines the same cannot be interfered with as it does not confer any legally enforceable right. The KVS is best judge to decide how to distribute and utilize the services of its employees.

4.2 Referring to the various principles as laid down by the Hon'ble Apex Court, it has been pleaded that it is always open to the aggrieved parties to make representation to the respondents. KVS has taken the decision in public interest. Teachers of KVS are liable to be transferred anywhere in India. Out of total teaching staff of 36565 in position, only 1455 transfers have been effected. KVS has identified total 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.

4.3 The transfer orders have been issued on administrative ground for the purpose of rationalisation and redistribution of existing teaching staff and in order to ensure that at least 50% of the regular teaching staff are available in all KVS across the country.

5. Heard learned counsel for the parties and perused the material available on record.
6. Counsel for the applicant submits that the Commissioner of KVS has no right to keep in abeyance the Para – 6 of the Transfer Policy in abeyance. Only Board of Governance who had made the policy can do so. Learned counsel further submits that respondents have not shown any document which suggests that approval from the Board of Governance has been obtained before keeping in abeyance the Para – 6 of the Transfer Policy which deals with the factors, points and calculation of displacement count of an employee for displacement transfer. The counsel for the applicant submits that respondents have passed impugned order ignoring the order issued by the DoPT wherein husband and wife who are in Government Service are required to be posted at same station.
7. Learned counsel for the applicants while drawing attention of this Tribunal to some of the provisions of National Education Policy, 2020 submitted that students of primary schools should be taught in their mother tongue. In most of the cases, the applicants by impugned order of have been shifted to southern region where they would not be able to teach the students in their regional language which will not serve the purpose behind fulfilling the post of primary teachers in south. He further submits that Government has belatedly advertised the vacancy of Primary Teachers. If transfer of the applicant is carried out then it will not be in the interest of either students or teachers.
8. Learned counsel for the applicants further submits that All India Kendriya Vidyalaya Teachers Association has already filed a representation to the Commissioner of KVS in protest against the transfer in question raising so many grievances. Counsel for applicants further submits that some of the representations filed by the applicants are also pending with the respondents. Applicants are also ready to file further representation that should be decided considering all the facts raised by them. It is further argued that in any case transfer order should not be acted upon qua the applicants till completion of this academic session. Learned counsel for



the applicants has placed reliance on orders passed by Lucknow, Jaipur, Delhi & Mumbai Bench of this Tribunal in support of his arguments.



9. On the contrary learned counsel for the respondents submits that impugned transfer order has been made on administrative ground for the purpose of rationalisation of the existing teaching staff. Transfers have been effected to post teachers where there is scarcity of teachers. This Tribunal should not interfere with the administrative power of the KVS where no statutory rule has been violated or transfer has not been effected on account of malafide. Learned counsel for the respondents further submits that the Para – 6 of the transfer guidelines has been kept in abeyance with the approval of the competent authority. The applicants have no vested right to remain posted at a particular place. Tribunal should not ordinarily interfere in the transfer order. Applicant is at liberty to raise personal grievances to the competent authority and the same cannot be made ground to challenge the transfer order. Relying upon judgments referred below learned counsel for the respondents prays to dismiss the OA.

(i) In the case of Union of India and others Vs H.N. Kirtania {1989AIR1774}, Hon'ble Apex Court has observed that transfer of public servant made on administrative ground or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfers order illegal on the ground of violation of statutory rules or on ground of malafides.

(ii) In the case of State of Madhya Pradesh and another Vs S S Kourav {1995AIR1056; 1995 SCC (3) 270}, Hon'ble Apex Court held that the Courts and Tribunals are not appellate forums to decide on transfers of officers on administrative grounds.

(iii) In the case of R K Sharma Vs Union of India, the honourable apex court held in its order dated 28.04.2021 in CA No. 1579/2021 that it is settled position of law that to serve the public interest or in an administrative exigency, an officer holding transferrable post can be

transferred to any station and no reasons are required to be recorded for issuance of such transfers.

In other judgments relied upon by learned counsel for the respondents the similar view has been taken which need not repetition.



10. Having regard to the submission made by the learned counsel for the parties and material available on record it emerges that the annual transfer process of KVS has been suspended for the current academic session i.e., 2022-23, only and the current academic session is near to end. It is also important to mention that provisions of Para – 6 of the transfer guidelines of 2021 have been not superseded and have been kept in abeyance. In our considered view the Board of Governance is the only competent body to revise the transfer guidelines whereas respondent failed to show any approval having been obtained by the Commissioner before keeping in abeyance the transfer guidelines. The effect and operation of the impugned transfer order qua the applicants have already been stayed by this Tribunal after considering the facts of the case. Other Tribunals have also granted interim relief against other teachers affected by the impugned transfer order. It cannot be denied that respondents are the best judge to decide administrative exigency regarding posting of the teaching staff. However, in the present case, we feel that while passing the impugned transfer order there is some violation of Transfer Policy, 2021 as also Government Order dated 30.09.2009 issued by Department of Personnel and Training.
11. The applicants have been posted far away from the posting place of their spouses who are either in Central Government or State Government or in Public Sector undertakings. Non compliance of the policy regarding posting of husband and wife at the same place has also not been explained by the respondents in reasonable and appropriate manner. It is true that there may be scarcity of teaching staff at some of the places but such situation cannot be dealt with in a way where guidelines of the Government are violated. The principles of natural justice are always expected to be followed by all the departments of Government whereas in the present matter mass transfer to such a distant places in the mid of

academic session have been effected without any prior notice as also without granting any joining period.



12. It is not appropriate to transfer the applicants without seeking from them option of posting as per the procedure in place. We are in agreement with the contentions of the learned counsel for the applicants that applicants who are Primary School Teachers would not be able to teach the students at the new place of posting in the different local language of the students in south. It is true the applicants have no vested right to remain posted at a particular place. However, the KVS cannot overlook the inconvenience caused to the teachers more so of ladies of primary school by transferring them in the mid-term. Mid-term transfer is not beneficial either to the students at both places and to the family members more particularly who are studying in secondary or higher secondary schools. National Education Policy also discards en masse transfer in the middle of the academic session.

13. In view of the above circumstances, we are of the view that if the impugned transfer order qua the applicants are not quashed, it will create more inconvenience to all the concerned than to serve the purpose behind effecting the impugned transfer. It will not be in the interest of the students for which the teachers are meant. As stated earlier the academic session is going to complete soon and status quo is already in existence regarding posting place of the present applicants. In the facts and circumstances of the case discussed above, we set aside the transfer order dated 16.09.2022 qua the applicants. However, it is made clear that after completion of the current academic session, the respondents are at liberty to pass fresh transfer order in accordance with the latest transfer guidelines and Government Order as also principles of natural justice.

(A K Dubey)
Member(A)

(Rameshwar Vyas)
Member(J)