

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

Order Sheet

Item no.: 18
O.A./915/2022 (CHANDIGARH)
[TRANSFER]
Court No.: 1

No of Adjournment:

Order Dated: 16/09/2022

**ABHA MAHAJAN
Vs
KENDRIYA VIDYALAYA SANGATHAN**

For Applicant(s) Advocate : Sh. K.B. Sharma

For Respondent(s) Advocate :

Order of The Tribunal

Learned counsel for the respondents have put in appearance on receiving the advance copy of the OA.

Heard.

Issue notices to respondents.

Sh. R.K.Sharma learned counsel for respondents accepts notices on behalf of respondents No. 1 to 3.

Through this OA the applicant is challenging the transfer order dated 13.09.2022 (Annexure A-1), whereby the respondents have transferred the applicant from K.V No. 1 Amritsar Cantt to KV, Adra, West Bengal. Action of the respondents has been challenged on the ground that under the banner of rationalisation, the respondents have not complied with the meaning of the term rationalisation. It has further been submitted that the transfer is to be done as per the Transfer Guidelines of KVS 2021. It has been submitted by the applicant that by issuing the impugned transfer order, the respondents have violated the various office memorandums issued by the DOPT whereby directions were issued for

ensuring the various benefits to the employees. It has been further submitted by the applicant that the impugned order is also violative of Clauses 6, 7 and 9 of the Transfer Guidelines, 2021. The applicant has relied upon the judgements passed by the Hon'ble Apex Court in the matter of **Home Secretary, U.T.Chandigarh Vs. Darshjot Singh Garewal**, JT 993 (4) SC 387 and **Shyam Narayan Jain Vs. State of Rajasthan and others**, 1995 (2) SCT, Page 79 , whereby it has been held by the Apex Court that the policy guidelines are binding and have to be followed by the administration. The applicant has further relied on the judgement passed by the Apex Court in the matter of **Indian Airlines Technical Assistants Union Vs. The Chairman and Managing Director, Indian Airlines**, 1995 (1) SCT, Page 2541, whereas it has been held that to satisfy the test of non-arbitrariness in State Action, it is necessary to give due weight to the reasonable or legitimate expectations of persons likely to be affected.

Learned counsel for the respondents submitted that the impugned order has been issued for the purpose of rationalisation and redistribution of existing teaching staff. It has been further submitted that all the provisions given in para 6 of the Transfer Guidelines 2021 are kept in abeyance.

Learned counsel for the applicant further submits that in the similar matters, some protection has been granted by this Tribunal and to maintain judicial parity, similar orders may be passed in this case also.

This Tribunal has heard the matter and in view of the submissions made by learned counsel for the applicant, some protection needs to be granted. The respondent may file the short reply qua the interim directions for staying Annexure A-1 qua the applicant.

List on 03.10.2022.

In the meanwhile, ad interim the respondents are directed not to execute the Annexure A-1 qua the applicant and allow the applicant to work at the

present place of posting till till the next date.

Modification or continuance of interim directions shall be considered on that date.

Supply copies of the orders to both the parties.

Ramesh Singh Thakur
Member (J)

/nd/