

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 21.10.2009**

% **W.P. (C.) No.6531/2006**

Naresh Singh Malik Petitioner

Through: Mr. M.K. Bhardwaj, Advocate

Versus

Govt. of NCT of Delhi & Ors. Respondents

Through: Mr. V.K. Tandon, Advocate

AND

W.P. (C.) No.10534/2006

Om Prakash Petitioner

Through: Mr. M.K. Bhardwaj, Advocate

Versus

Govt. of NCT of Delhi & Ors. Respondents

Through: Mr. V.K. Tandon, Advocate

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE VIPIN SANGHI

- | | | |
|-----------|---|-----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

ANIL KUMAR, J. (ORAL)

*

1. The petitioners have impugned the orders passed in O.A. No.2560/2005 and O.A. No.2561/2005 dismissing their petitions

against their transfer orders, transferring the petitioner, Shri Naresh Singh Malik from Nand Nagri to West Jyoti Nagar and the petitioner Shri Om Prakash from Government Co-Ed. School, East Gokulpur, Loni Road to Government Senior Secondary School, Bawana.

2. The petitioners are the TGT teachers in the schools of Delhi Administration. The allegation of the petitioners are that they had been transferred frequently at the instances of and on account of the malafides of respondent No.4, Deputy Director of Education, District North East, Delhi.

3. The petitioners challenged their transfers and filed petition. The petitions against their transfer were, however, dismissed by the Tribunal holding that there was no recommendation or role of education officer, respondent no.4 in the transfer of the petitioners, which had been effected on account of the administrative exigencies by the Joint Director of Education with his independent application of mind.

4. Regarding the plea of the petitioners that they were to be posted near the place of their residence it was held that the transfer of the petitioners near the place of their residence was dependent on the availability of posts in the nearby schools as well as on other administrative exigencies. The respondent had also contended that the petitioners could be posted near their place of residence as per their

option after consideration of various factors, however, the petitioners do not have an indefeasible right to be posted at a particular place.

5. The petitioners have impugned the orders of the Central Administrative Tribunal dismissing their petition in the writ petitions filed before this Court. This Court by the order dated 28th April, 2006 in W.P.(C) No.6531/2006 had stayed the transfer order of Sh. Naresh Singh Malik. Transfer of Sh. Om Prakash was also stayed by this Court by order dated 30th June, 2006. Consequent to the stay of transfer orders, the petitioners are continuing in their present postings for more than three years.

6. Learned counsels for the petitioners have contended that respondent No.4, at whose instance the petitioners had been allegedly transferred frequently, had since been transferred for past more than one year. Consequently, the plea of the counsel for the petitioners that they were transferred frequently at the instance of respondent no.4 has only become academic. The apprehension of the petitioners that they may be transferred frequently in future shall also not survive as the respondent No.4 has already been transferred, even if the plea of transfer at the instance of respondent no.4 is accepted. The petitioners have also completed a tenure of more than 3 years and under the policy they may be liable for transfer and if feasible near the place of their residence.

7. In the circumstances, it will be just and appropriate for the respondents to reconsider as to where the petitioners are to be transferred. In the circumstances it will be desirable and required for the respondent to reconsider their transfer order passed in 2005 and pass the appropriate orders expeditiously in accordance with law. The petitioners shall continue in their present postings till the fresh transfer orders are passed by the respondents.

8. With these directions, the writ petitions are disposed off. Parties are left to bear their own costs.

ANIL KUMAR, J.

OCTOBER 21, 2009
rsk

VIPIN SANGHI, J.