Court No. - 2

Case :- WRIT - A No. - 4289 of 2023

Petitioner :- Smt. Vimi Handa
Respondent :- The Commissioner Kendriya Vidyalaya Sangathan , New Delhi And Others
Counsel for Petitioner :- Dinesh Kumar Tandon
Counsel for Respondent :- Pushpila Bisht

Hon'ble Rajan Roy,J.
Hon'ble Om Prakash Shukla,J.

1. Parties' Counsel are *ad idem* that a similar writ petition, bearing Writ-A No. 2870 of 2023, which was taken up yesterday and decided, therefore, this petition be also decided in same terms. The aforesaid writ petition has been decided by us on 15.04.2024 in the following terms :-

"1. Heard learned counsel for the petitioner and learned counsel for the respondent.

2. By means of this petition, the petitioner has sought following relief:-

"i) To issue writ or order in the nature of certiorari quashing the impugned order of Hon'ble Tribunal dated 03-04-2023, transfer order dated 16-09-2022 and relieving order dated 17-09-2022 as contained in Annexure No. A-5, A-1 & A-2 to the Writ Petition.

ii) To issue writ or order in the nature of certiorari quashing the impugned order dated 12-09-2022 and Memorandum dated 21-12-2022 as contained in Annexure No. A-3 & A-4 to the Writ Petition.

iii) To issue Writ or order or direction to stay the operation and implementation of transfer order dated 16-09-2022 and relieving order dated 17-09-2022 as contained at Annexure No.A-1 and A-2 to the Writ Petition till the finalization by Writ Petition."

3. At the very outset learned counsel for the petitioner placed before us, a judgement of Hon'ble the Supreme Court passed

in ***Special Leave to Appeal Civil Nos.24825 of 2023, Kendriya Vidyalaya Sangathan and ors. Vs. Smt. Neena Khatri****, arising out of Judgement and order dated 19.10.2023 passed in MC No. 5185 of 2023 by the High Court of Madhya Pradesh, Principal Seat at Jabalpur.*

4. By the said Judgment, the Madhya Pradesh High Court had quashed the transfer orders of similarly placed persons who were teachers in the Kendriya Vidyalaya.

5. The Judgement of Hon'ble the Supreme Court reads as under:-

"1. Heard Mr. R. Venkatramani, learned Attorney General assisted by Mr. S. Rajappa, learned counsel appearing for the petitioners.Also heard Mr. Siddharth R. Gupta and Mr. Ankur Chhibber, learned counsel appearing for the respondents.

2. On 01.12.2023, when these cases were last listed, the following order was passed:

"Heard Mr. R. Venkataramani, learned Attorney General for India appearing for the petitioners. The learned Attorney General submits that as the present matter pertains to large scale transfer of teachers of Kendriya Vidyalayas and regular recruitment process has been undertaken, the Kendriya Vidyalaya Sangathan may like to revisit the process of rationalisation of the teachers, in the Kendriya Vidyalaya Sangathan Schools. Accordingly, he prays for time to receive further instructions.

xx xx xx"

3. The affidavit filed thereafter on 01.02.2024 by the Joint Commissioner (Personnel), Kendriya Vidyalaya Sangathan ("KVS") indicates that the decision has been taken to drop the transfers insofar as the present group is concerned. Then the cases of individual teachers will be considered in light of the process incorporated in the affidavit.

4. The learned Attorney General would submit that since normal teaching work was affected during the pandemic years when classes had to be taken in the online mode and the students faced serious difficulties in the learning process through the online mode, rationalisation of teachers and re-distribution of the existing human resources was proposed, to deal with the exigencies in the KVS schools.

5. Accordingly, the KVS had identified the schools which are short of regular teaching staff on their rolls and those schools which were having 80% or more regular teaching staff on their rolls as per available vacancies, on an all-India basis. The criteria of transfer were then based inter alia on the station seniority (All India/Cadre/Subject-wise), who had the longest posting in the concerned station. It is also submitted that the teachers who were transferred in September 2022 were such teachers, who have been posted in a given station, for more than ten years. Under the said policy, to deal with the exigencies, around 1455 transfers have been affected and this is projected to be 4% of the total teaching strength in the schools, under the KVS. It is further pointed out that while affecting these transfers, the needs of the students were of paramount consideration and the organisational interest was also borne in mind. According to the KVS authorities, the annual transfer process under the

KVS was suspended for the Academic Session 2022-2023, to deal with the pandemic years.

6. Following the assurance given by the learned Attorney General to this Court on 01.12.2023, an exercise was carried out and a process is proposed to deal with the 1455 transfers. The proposed process reads as under:

"Proposed Process-

1. The available vacancies as on 31.01.2024 will be displayed to all concerned through KVS website. The teachers will be given option for being posted in a station other than from the station from where they were transferred (original Kvs).

2. The three choices of Stations from among the identified employees out of those who were transferred in September-2022 may be collected through dedicated E-mail ID, duly signed copy by the employee concerned and counter signed by his/her controlling officer.

3. The priority will be seniority of age (DOB) irrespective of gender. In case of a tie(same DoB), females will be given preference.

4. That on receipt of choices that will be given the process of posting the employees shall be effected within four weeks.

5. All pending cases will be dropped in terms of the orders to be passed by the Hon'ble Supreme Court and further enlargement of option will not be entertained thereafter."

7. As can be seen from above, the transfer orders which have been challenged by the individual teachers are to be dropped by the authorities. The concerned teachers (1455 in number) will be given the option as per the extracted proposal.

8. Having considered the above in light of the submission made by the learned counsel for the parties, we are of the considered opinion that a decision should be permitted to be taken by the KVS in light of the above proposal.

9. However, as in the meantime, there could be gap period for some of the transferred teachers, the KVS authorities will regularise the gap period, by appropriate orders.

10. With the above, the Special Leave Petitions stand disposed of. Pending application(s), if any, shall stand closed."

6. Learned counsel for the contesting opposite party very fairly submits that the said judgment applies to the case of the petitioner also, as her transfer was included in the 1455 transfers, in respect of which a statement was made by learned Attorney General on 01.12.2023 in the aforesaid case before the Hon'ble Supreme Court of India, according to which such transfer orders, which have been challenged by individual teachers, were to be dropped by the authorities. The concerned teachers were to be given the option as per the extracted proposal in the above-quoted judgement of the Hon'ble Supreme Court. She submitted that the case of the petitioner would also be dealt with accordingly.

7. As regards the non implementation of the said judgment qua the petitioner is concerned, she submitted that there was an interim order of this Court to the effect that no coercive step would be taken, therefore, the petitioner could not be asked to join.

8. In view of the aforesaid we dispose of this petition also in terms of the judgement of the Hon'ble Supreme Court dated 19.03.2024 as quoted here-in-above and the statement made by Ms. Pushpila Bisht, learned counsel for the respondent.

9. Opposite parties shall abide by the above quoted Judgment forthwith."

2. In view of the aforesaid statement made by Counsel for the parties and as we, also, after going through the records, find that the matter is similar, we **dispose of** this writ petition in terms of above quoted order, meaning thereby that the petitioner shall also be entitled to the benefit of the observations and directions contained in the aforesaid order on the same terms with corresponding obligations upon the respondents.

(Om Prakash Shukla, J.) (Rajan Roy, J.)

Order Date :- 16.4.2024

Ajit

Digitally signed by :-
AJIT KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench