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

Judgment dated: 27th July, 2016

+ W.P.(C) 5885/2016
MANJU SHARMA

..... Petitioner

Through : Mr. G.C. Sharma, Mr.Rohit Kumar,
Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through : Mr. Ruchir Mishra, Mr.Jitendra
Kumar Tripathi, Mr.Mukesh Kumar
Tiwari, Advocates for UOI/R1.
Mr. S. Rajappa, Dr.Puran Chand,
Advocates for R2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 28th September, 2015 passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal' for short) by which an OA filed by the petitioner stands dismissed as also the order of 4th December, 2015 passed in the review application filed by the petitioner herein which was also dismissed.

2. Necessary facts to be noticed for disposal of this writ petition as urged by the petitioner are that the petitioner was appointed as PGT (Commerce) by the Kendriya Vidyalay Sangathan (KVS) Delhi region on 8th February, 1988. Her first posting was at Kendriya Vidyalaya (KV) No. 1, Air Force Station (AFS), Gurgaon and thereafter, she has worked in various KVS schools in Delhi. In the year 2011, she was transferred from K.V., New

Friends Centre, Vigyan Vihar, Delhi to K.V. Janak Puri, New Delhi. Thereafter, on 3rd October, 2011, the petitioner was transferred from K.V., Janak Puri, New Delhi to K.V., Haldwani in Uttrakhand during mid-session. Although, her transfer was stated to be in public interest but according to her, she suffered serious financial hardship. Her husband, at that point of time was posted in Hong Kong, her un-married daughter was posted in Pune and she was also looking after her old mother-in-law. However, she complied with the order and remained at Haldwani for the entire period of two and half years.

3. On 4th March, 2014, the petitioner was transferred to K.V., New Friends Centre, Vigyan Vihar, Delhi under clause 13 of the KVS Transfer Guidelines. Within a period of three months of the order dated 4th March, 2014, the petitioner was transferred again to Pulwas in Bhiwani, Haryana on the ground of being declared surplus in the said staff, though, she was not surplus in the said school. On 28th May, 2014 on the very next date of her transfer to Kendriya Vidyalaya Paluwas, the order of her transfer dated 27th May, 2014 was modified by a corrigendum posting her to K.V. No. 1, AFS (2nd shift) Gurgaon. The said corrigendum also posted a substitute in place of petitioner to the post of PGT (Commerce), namely Smt. Pooja Rani, who was initially posted to K.V. No. 1, AFS Gurgaon to KV, New Friends Centre, Vigyan Vihar, Delhi in place of the petitioner.

4. The petitioner made a representation on 28th May, 2014 against her transfer to K.V., Paluwas. Since, no action was taken on her representation, OA No. 3053/2014 was filed before the Tribunal challenging her transfer. As stated, the above OA and review petition stand dismissed. Taking note of various judgments of the Supreme Court, the OA and the review petition were dismissed by the Tribunal. The Tribunal noticed that in ***Shilpi Bose vs.***

State of Bihar reported as 1991 Supp. (2) SCC 659, it was held that the Court should not interfere with the transfer order which is made in public interest and for administrative reasons unless transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transfer post has no vested right to remain posted at one place. The Tribunal also noticed the judgment rendered by the Supreme Court of India in the case of *Union of India vs. S.L. Abbas* reported as (1993) 4 SCC 357, wherein it was held that who should be transferred where, is a matter for the appropriate authority to decide. The Tribunal also placed reliance in the case of *Major General J.K. Bansal vs. Union of India and others* reported as (2005) 7 SCC 227. The Tribunal also took notice of *State of M.P. and another vs. S.S. Kourav and others* reported as 1995(2) SLJ 109 (SC) = (1995) 3 SCC 20, wherein it was held that the Courts or Tribunals are not the appellate forums to decide on transfer of officers on administrative grounds. The Tribunal also placed reliance on *State of U.P and another vs. Siya Ram and another* reported as 2005 (1) SLJ 54 (SC): (2004) 7 SCC and *State of U.P. vs. Gobardhan Lal* reported as 2004 (3) SLJ 244 (SC): (2004) 11 SCC 402.

5. The prime grievance of the petitioner is that since the petitioner was transferred on being declared surplus another person (Ms.Pooja Rani) could not have posted in her place in the same stream. We had found merit in this argument of learned counsel for the petitioner and issued notice and also requested the learned counsel appearing for KVS to seek appropriate instructions in the matter.

6. Mr. Rajappa, learned counsel for the respondent No. 2/KVS has handed over in court, written instructions received by him as per which, the respondent would be agreeable to consider the request of the petitioner

regarding cancellation of her transfer from K.V., New Friends Centre, Vigyan Vihar, Delhi (2nd shift) to K.V., Paluwas in Bhiwani, Haryana which was ordered by an order dated 26th May, 2014 and subsequently modified by an order of 30th May, 2014.

7. We have heard the learned counsel for the parties and appreciate the stand taken by the respondent in this matter. In view of the written instructions received by the learned counsels, we allow the writ petition and quash the order regarding transfer of the petitioner dated 26th May, 2014 which was subsequently modified by an order of 30th May, 2014, the effect of which would be that the petitioner would now continue to perform her duties at her place of posting at Kendriya Vidyalaya, New Friends Centre (second shift), Vigyan Vihar, Delhi and consequently, the Kendriya Vidyalaya Sangathan/respondent No. 2 would issue a fresh posting orders regarding Ms. Pooja Rani, who was transferred in terms of corrigendum to the place, where the petitioner was working.

8. With these directions, the writ petition is disposed of.

9. We would like to record our appreciation for the learned counsel for the respondent, who has advised his clients and has helped in early resolution of the matter.

Dasti under signatures of the Court Master.

G.S.SISTANI
(JUDGE)

I.S. MEHTA
(JUDGE)

JULY 27, 2016/j