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

% Judgment delivered on: 04.11.2022

+ W.P.(C) 15241/2022

KENDRIYA VIDYALAYA SANGATHAN THROUGH THE  
COMMISSIONER & ORS. .... Petitioners

versus

DR RITU TYAGI & ANR. .... Respondents

**Advocates who appeared in this case:**

For the Petitioners : Mr. Sanjay Jain, ASG with Mr. S. Rajappa, Mr. Yuvraj Sharma, Mr. R. Gowrishankar and Mr. Nishank Tripathi, Advocates.

For the Respondents: Dr. Amar Nath Gupta and Mr. Santosh Kumar Sahu, Advocates for R-1.

Mr. Ajay Jain, CGSC with Mr. Chetanya Puri (GP), Mr. Anand Awasthi and Mr. Keshav Ahuja, Advocates for R-2/ UOI.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

**CM APPL. 47196/2022, CM APPL. 47198/2022 & CM APPL. 47199/2022 (for exemption)**

Allowed, subject to all just exceptions.

**W.P.(C) 15241/2022 & CM APPL. 47197/2022 (for stay)**

1. The petitioner No.1 – Kendriya Vidyalaya Sangathan ('KVS') impugns judgment dated 21.09.2022, whereby the Original Application

(‘OA’) filed by the respondents challenging the order of the petitioner dated 12.09.2022 has been allowed.

2. By the order dated 12.09.2022, the Tribunal has directed the Competent Authority to consider the representation of Respondent No.1 in light of the existing policy which was prevalent on 12.09.2022.

3. Issue notice. Notice is accepted by learned counsel appearing for respondent Nos. 1 and 2.

4. With the consent of parties, the petition is taken up for final disposal today.

5. Respondent No.1 is working as a Post Graduate Teacher with the petitioner No.1 and is presently working at Kendriya Vidyalaya, Sikh Lines, Meerut Cantt, Meerut.

6. Petitioners have Transfer Guidelines, which are called the Transfer Guidelines of Kendriya Vidyalaya Sangathan, 2021. The objective of the guidelines is to maintain equitable distribution of its employees across all locations to ensure efficient functioning of the organization and to optimise job satisfaction amongst employees.

7. The policy classifies the types of transfers as Administrative Transfers and Request Transfers. The Administrative Transfers are covered in paragraphs 5 to 8 of the policy and Request Transfers are covered in paragraphs 9 to 11 of the said policy.

8. It is an admitted position that petitioner No.1 carries out an Annual Transfer Process for each Academic Session, keeping in view the

objective of the policy.

9. On 12.09.2022, a public notice was issued notifying that Annual Transfer Process of KVS had been suspended for the current Academic Session of 2022-23 and it was declared that only Administrative Transfers would be effected for the purpose of re-distribution and rationalization of teaching staff. It was further declared that provisions of paragraph 6 of the Transfer Guidelines, 2021 were kept in abeyance. Paragraph 6 of the Transfer Guidelines stipulate factors, points and calculation of displacement count of an employee for displacement transfer.

10. On 12.09.2022 itself, a transfer order was issued in respect of 193 employees on administrative ground for the purpose of rationalization and re-distribution of the existing teaching staff. The transfer order further stipulated that said exercise had been carried out in order to ensure that at least 50% of regular teaching staff was available in all Kendriya Vidyalayas across the country.

11. It is the above transfer order, which became subject matter of the OA filed by respondent No.1

12. Learned Additional Solicitor General appearing for the petitioners submits that petitioner organization has about 35,000 employees and on an annual basis, several thousand employees are transferred in terms of the policy. Learned ASG submits that in view of the COVID situation of the last two years, the Competent Authority decided to suspend the annual transfers for this year, however, reserved the right to carry out an Administrative Transfer, keeping in view the objectives of the policy.

13. It is noticed that the impugned order 21.09.2022 was passed by the Tribunal on the very first date of listing, without giving an opportunity to the petitioners to explain the decision taken by them to suspend paragraph 6 of the transfer policy.

14. Learned ASG for the petitioner submits that the direction of the Tribunal to consider the representation of respondent No.1 in light of the existing policy, which was prevalent on 12.09.2022 i.e., prior to keeping in abeyance the provisions given in paragraph 6 of the Transfer Guidelines, 2021 would be contrary to the powers of the petitioner No.1 conferred by paragraphs 5 and 7 (i.e., Administrative Transfer power) of the policy.

15. We notice that there is no rationale given by the Tribunal as to why the notice dated 12.09.2022 of the petitioner No. 1, suspending the annual transfer process, has been directed to be ignored while considering the representation of respondent No.1.

16. It is noticed that paragraph 9 of the policy permits an employee to make a request for transfer and the parameters and factors to be taken into account for a Request Transfer are mentioned in paragraph 10.

17. The contention of learned ASG for the petitioners is that a Request Transfer can be made only after the employee has joined on transfer and as such, in the instant case, respondent No.1 should first join the place of posting and then make a request for transfer, which could be considered in terms of the policy, if covered by the policy.

18. Keeping in view the facts and circumstances of the case, we direct

the Competent Authority of the petitioners to consider the representation of respondent No.1, *inter alia*, in the light of paragraph 9 (Request Transfer) of the Transfer Guidelines, 2021.

19. It is clarified that this Court has neither considered nor commented upon the merits of contentions of either of the parties.

20. It is further directed that till a speaking order is passed on the representation of the respondent, the transfer order dated 12.09.2022 *qua* respondent No.1 shall be kept in abeyance. The same shall thereafter, be subject to the orders passed by the Competent Authority on the said representation.

21. The petition along with pending application is disposed of in the above terms. All rights and contention of the parties are reserved.

22. Order *Dasti* under signatures of the Court Master.

**SANJEEV SACHDEVA, J**

**TUSHAR RAO GEDELA, J**

**NOVEMBER 4, 2022/nd**