

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 342/2002

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New Delhi, this the 9th day of April, 2003

Hon'ble Sh. V.K.Majotra, Member (A)
Hon'ble Sh. Shanker Raju, Member (J)

Sh. Nagendra Upadhyay
S/o Sh. Muktinath Upadhyay
Trained Graduate Teacher (Sanskrit)
posted at Govt. Boys Sec. School
Kalyanpuri, Delhi - 91
(Under the Directorate of Education,
Govt. of NCT of Delhi).
R/o 19/188, Trilokpuri, Delhi - 91.

...Applicant

(By Advocate Sh. S.N.Tripathi, proxy
for Ms. Madhu Tewatia)

V E R S U S

1. The Director of Education
Directorate of Education
Govt. of Delhi.
Delhi - 54.
2. Smt. Rekha Jain,
Deputy Director of Education
Distt. East Rani Garden
Geeta Colony, Delhi - 31.
3. The Administrative Officer
East Zone Distt., Directorate of Education
Govt. of Delhi, Rani Garden, Geeta Colony
Delhi - 31.
4. Govt. of NCT of Delhi
through Chief Secretary
Secretariat of Delhi Govt.,
ITO, Delhi.

...Respondents

(By Advocate Sh. Mithun Barsaley, proxy
for Ms. Zubeda Begum)

O R D E R (ORAL)

By Shri V.K.Majotra,

Ld. proxy counsel for the applicant at the outset has sought that the Court may consider relief stated in paragraph 8 (a) only and the remaining reliefs may be deemed to have been not pressed. Thus presently, we will be adjudicating the relief i.e. :-

"(a) Direct the respondents to set aside/quash the warning memo dated 4-9-2001 as being totally

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illegal and violative of the principles of natural justice which enshrine fair play in procedure and action"

2. Learned proxy counsel of the applicant has stated that the applicant had been issued a warning in the shape of impugned memorandum dated 4-9-2001 for making complaints against Mrs. Rekha Jain, Deputy Director of Education i.e. respondent No.2. Learned counsel of the respondents has stated that Mrs. Jain has retired on superannuation and that the warning served on the applicant is not a recorded warning.

3. Learned proxy counsel of the applicant stated that the applicant is a T.G.T. (Sanskrit) and has been functioning as Chairman of Shikshak Jagran Manch which is a registered society under the Societies Registration Act XXI of 1860. He has been making complaints against respondent No.2 for investigation into her unlawful activities. However, whereas the complaints were not investigated, Mrs. Jain herself issued the impugned memorandum by way of a warning against the applicant.

4. Learned proxy counsel of the respondents stated that the Shikshak Jagran Manch is not a recognised organisation and as such not authorised to make any complaints to the authorities for investigation. He further stated that Ms. Jain had been exonerated from the complaints against her by the higher authorities.

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5. So far as the status of Shikshak Jagran Manch is concerned, the certificate of registration (Annexure P-1) is enough. We have not been shown any other provisions of law under which any other recognition of society is required to undertake grievances of the public servants with the concerned authorities. However, the impugned order has been issued against the applicant without following the principles of natural justice. Whereas the applicant had made complaints ~~.....~~ against respondent No.2 Mrs. Jain herself, she has herself issued the impugned memorandum against the applicant. The proper course for her would have been to forward the complaints against her for necessary action to higher authorities rather than to deal with them herself and issued the impugned memorandum against the applicant. Even if stand of the respondents is that the impugned memorandum does not involve a recordable warning, the same is liable to be quashed, as respondent No.2 Mrs. Jain who had been complained against has herself set-up ~~in~~ judgement and issued the impugned memorandum against the applicant which is in the nature of punishment.

6. Having regard to the discussions made and reasons stated above, impugned memorandum dated 4-9-2001 is quashed and set aside.

7. OA is allowed in the above terms. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)