

Central Administrative Tribunal
Principal Bench

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O.A.No.3265/2002

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri R.K. Upadhyaya, Member (A)

New Delhi, this the 3rd day of September, 2003

Mr. Madhup Mehrotra
House No.164, Sector 4
Urban Estate
Gurgaon - 122 001. Applicant

(By Advocate: None)

Vs.

1. Union of India through
Chairman, Kendriya Vidyalaya Sangathan
Ministry of Human Resource Development
Government of India
Shastri Bhawan
New Delhi.
2. Kendriya Vidyalaya Sangathan
through its
Commissioner Sh. H.M.Cairae
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016. .. Respondents

(By Advocate: Sh. S.Rajappa)

O R D E R (Oral)

By Shri Shanker Raju, Member (J):

By this OA, the following reliefs have been sought:

- "a) To declare that the CCS (CCA) Rules have been extended mutatis mutandis to the KVS, without any application of mind, and in a mechanical fashion thereby prejudicing the interests of the affected persons in the matter of ongoing inquiries of the KVS.
- b) To declare that the said CCS (CCA) Rules, as extended to the KVS, cannot be interpreted in a restrictive manner, so as to be prejudicial to the interests of the Charged Officer, in the matter of ongoing departmental inquiries of the KVS.
- c) Issue an appropriate, order or direction directing Respondent Nos.1 and 2 to appoint the DA of the choice of the applicant,

notwithstanding the fact that such a proposed DA may be a serving/retired central government servant.

d) Issue an appropriate, order or direction restraining therein the Respondents Nos.1 and 2 from proceeding with the departmental inquiry against the applicant, without first appointing the DA of the choice of the applicant, and without affording the applicant, with the assistance of the said DA, an opportunity to inspect the documents relied upon by the Respondent Nos.1 and 2, in the matter of the ongoing departmental inquiry against the applicant.

e) To pass such other and further orders which may be deemed fit and proper in the facts and circumstances of this matter."

2. As none appeared on behalf of the applicant, OA is disposed of under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

3. Applicant, while working as Principal, was placed under suspension and proceeded against in a major penalty under Rule 14 of the CCS (CCA) Rules, 1965.

4. KVS being an autonomous body vide Section 80 of the Chapter-VIII adopted extension of application of Central Civil Services (Classification Control and Appeal) Rules, 1965 (hereinafter called as Rules, which mutatis mutandis applies to staff of the Sangathan and in the Rules where a Government servant is figuring it may be substituted as "Member of staff of Kendriya Vidyalaya/Kendriya Vidyalaya Sangathan.

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5. Board of Governors vide its decision taken on 19.12.1985 decided that under Rules, which have been extended to the KVS, 'Government servant' adhering-- in the rules may be interpreted to mean an 'employee of the KVS', and in that manner, he can take assistance of an employee belonging to KVS only.

6. Though earlier inquiring authorities have allowed persons other than KVS employees to act as Defence Assistants too, those have been allowed as a special case. Further action is to be taken as per the clarification.

7. Applicant in the present OA requested for nomination of Defence Assistant. KVS has not acceded to the request of the applicant to appoint Defence Assistant of the choice of the applicant. An appeal preferred, the same was rejected vide order dated 31.7.2002 and it was decided that applicant should take the services of a retired or serving employee of KVS only as Defence Assistant.

8. Applicant contends that the reasons given by the respondents are arbitrary as Rule 14(8)(a) of the Rules provides that the Government servant may take the assistance of any other Government servant posted in any office either at his headquarters or at the place where the inquiry is held or even a retired Government to present the case on his behalf. The interpretation of the Rules even allowing an employee of KVS to act as Defence Assistant as an outsider. According to the applicant, there is no reasonable

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nexus or intelligible differentia in selecting person to act as Defence Assistant and the objective of disciplinary rules of KVS.

9. It is stated that KVS employees are under direct administrative control of the KVS and are amenable to control and mobilisation of the senior officers. It is stated that Shri J.R.Bhardwaj was an ex-employee of the KVS but was not allowed to act as Defence Assistant. However, it is stated that in the matter of an inquiry conducted against one Mr.P.V. Chikara, Primary Teacher of KV, Shalimar Bagh, one Mr. A.K.Chaturvedi, Deputy Chief Legal Officer of the Delhi Vidyut Board, an outsider, was allowed to act as Defence Assistant.

10. By an interim order dated 17.12.2002 further proceedings in the disciplinary proceedings have been stayed.

11. Shri S.Rajappa, learned counsel for respondents, contends that applicant proposed the name of one Shri J.R.Bhardwaj as Defence Assistant, as Shri J.R.Bhardwaj had worked in KVS as a deputationist and was not a regular employee of KVS, and therefore the request was turned down.

12. Referring to Circular dated 18.12.1985, it is stated that only regular employee or a retired employee from KVS is allowed to appear as Defence Assistant.

13. It is stated that KVS is a Society, registered under the Societies Registration Act and being an autonomous body a provision of CCS (CCA) Rules with modifications are adopted by the KVS. It is further stated that applicant is adopting delaying tactics to avoid the inquiry.

14. We have carefully considered the rival contentions putforth in the OA as well as submissions made by the learned counsel for respondents. Rule 14(8) (a) and (b) of the CCA (CCA) Rules provides defence assistance of any serving or retired Government servant to a delinquent, and an exception to this is when the inquiring authority is a legal practitioner only then services of legal practitioners can be taken to defend the Government servant in the inquiry as Defence Assistant.

15. The word 'Government servant' figuring in Rule 14(8) (a) and (b) has been substituted on adoption of Rules by the KVS. KVS, being an autonomous body and as per this, KVS employee against whom a disciplinary proceedings is pending can take assistance of any other KVS employees whether posted in the Headquarter or at the place where the inquiry is held. It is also provided that KVS employee may take assistance of a retired KVS employee.

16. We do not find any infirmity in the adoption of CCS (CCA) Rules ibid with the aforesaid modification the intelligible objective sought to be achieved and intelligible differentia is in conformity with the Article 14 of the Constitution of India.

17. As the other Government servants who are governing under CCS (CCA) Rules, are allowed to take assistance of serving or retired Government servants on the same analogy KVS employee can have the assistance of retired or serving employee of KVS. The rejection of the applicant's request to appoint an outsider is in conformity with the rules by the KVS as well as the decision taken by the Board of Governors.

18. In so far as the discrimination is concerned, though indefinitely in ignorance of the notification the inquiring authority allowed the services of outsider as defence assistant to other employees, but the aforesaid wrong cannot vest the applicant a right to claim the same, de hors the rules.

19. In so far as the case of Shri J.R.Bhardwaj is concerned, as he was only on deputation and was not a regular employee of KVS, as such he does not come within the purview of the defence assistance as per the rules adopted.

20. In the result, for the foregoing reasons, we do not find any merit on the claim of the applicant, OA is dismissed. Interim order is vacated.

No costs.


(R.K.Upadhyaya)
Member (A)


(Shanker Raju)
Member (J)

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