

2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. NO.21/2003
IN
O.A. NO. 305/2002

New Delhi, this the 21st day of April, 2003

HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi - 110 016
2. Principal, Kendriya Vidyalaya,
Rangpuri, New Delhi
3. Principal, Kendriya Vidyalaya,
Rajokari, New Delhi
4. Principal, Kendriya Vidyalaya,
AFS Bawana, New Delhi
5. Principal, Kendriya Vidyalaya,
Nahara
6. Principal, Kendriya Vidyalaya,
AFS Dadri, New Delhi
7. Principal, Kendriya Vidyalaya,
Pragati Vihar, New Delhi
8. Principal, Kendriya Vidyalaya,
Rohini, Delhi
9. Principal, Kendriya Vidyalaya,
NTPC Dadri, New Delhi

.... Applicants

(All the above applicants are represented by Shri V.K.
Gupta, Deputy Commissioner (Administration), Kendriya
Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet
Singh Marg, New Delhi - 110016)

(By Advocate : Shri S. Rajappa)

Versus

1. Mrs. Abha Bhardwaj,
Wife of Shri R. Bhardwaj,
Resident of A-2/55 Sri Agrasen Apartments,
Plot No.10, Sector VII,
Dwarka, New Delhi
2. Mrs. Madhu Sharma,
Wife of Shri R.K. Sharma,
Resident of M-38, New Mahavir Nagar,
New Delhi
3. Smt. Kanta Vohra,
Wife of Shri Davendra Vohra,
Resident of 109/B, Ramesh Nagar, New Delhi

3

(2)

4. Smt. Rekha Pathak,
Wife of Shri C.D. Pathak,
Resident of 44, Lakshmi Apartments
Sector-9, Rohini, Delhi
5. Smt Rajni Sati,
Wife of Shri G.S. Sati
Resident of B-549, Sector - 9
Kendriya Vihar, NOIDA
6. Smt. Renu Saxena,
Wife of Shri A.K. Saxena,
Resident of C-88, East of Kailash,
New Delhi
7. Ms. Tajinder Kaur,
Daughter of Sardar Narain Singh,
Resident of DA/99/C Hari Nagar,
New Delhi
8. Smt. Usha Rani Sharma,
Wife of Shri V.B. Sharma,
Resident of 28 Vasundara Enclave,
Plot No.B-5, Deluxe Apartments,
Delhi

.... Respondents

(By Advocate : Shri A.K. Bhardwaj)

O R D E R

By Govindan S. Tampi, Member (A) :

C.P. No.21/2003 has been filed by the respondents in OA No.305/2002 - Kendriya Vidyalaya Sangathan.

2. By order dated 9.8.2000, Kendriya Vidyalaya Sangathan (KVS) transferred 23 Yoga Teachers who were in surplus. The transfer order was challenged in as many as four OAs with different ^{results} ~~outcome~~: Against the same Writ Petitions were filed by the parties before the Hon'ble Delhi High Court, who directed ^{to} ~~on~~ 25.7.2001 to take a decision on Baldev Mahajan Committee report. Following the rejection of the said report by the Board of Governors of KVS on 20.9.2001, all the Yoga Teachers were directed to report for duty at places where they were

4

(3)

posted to, OA Nos. 2849 and 2853 of 2001 filed against the above were dismissed on 29.11.2001 and the said decision as upheld in CWP 7711/2001. OA 2923/2001 challenging the relieving orders was dismissed on 29.1.2002 and the persons were relieved on 30.1.2002. OA 305/2002 filed challenging the relieving order was disposed on 13.2.2002, directing that the relief of the Teachers be kept in abeyance till 31.3.2002. Hon'ble Delhi High Court stayed the above order on 8.3.2002. On the same day Tribunal directed while disposing OA No. 553/2002 that the relief be held back till 16.5.2002. On 31.10.2002, when the matter came up before the Hon'ble High Court, the same was dismissed as it had become infructuous. While proceedings were on between the two parties before the Hon'ble High Court, in the meanwhile, the applicants in OA No. 305/2002 filed CP No. 503/2002, alleging that the Tribunal's orders of 13.2.2002 and 8.3.2002 have not been complied with. Tribunal had directed on 9.1.2003, that the compliance be filed by 22.1.2003. According to the applicants in this CP, contempt has indeed been committed by the opposite parties as -

(a) the Tribunal's orders dated 13.2.2002 and 8.3.2002 were not in force, having been stayed by the Hon'ble High Court on 8.3.2002.

(b) Tribunal's order dated 8.3.2002 has been challenged in the Hon'ble Delhi High Court by CWP,

(c) as orders dated 13.2.2002 and 8.3.2002 have been stayed, the applicants in OA should have reported for duties, and committed contempt.

(d) applicants in OA have themselves conceded before the Hon'ble High Court that the orders of abeyance had abated on 16.5.2002, and as such they had committed contempt of the order of the Tribunal, by not abiding by it

(e) decision of the Hon'ble Supreme Court in CA No. 6459/2002, Union of India & Others vs. Anusuya Pathak & Ors., had frowned upon petitions against transfer and the same squarely covers the present case.

(f) CP No. 503/2002 in OA 305/2002 should not have been enforced.

3. In view of the above, the present applicants (respondents in OA) seek that contempt proceedings be initiated against the opposite party, they be directed to join at new places, permission be accorded to initiate disciplinary proceedings against the applicants in OA, and that Tribunal's order dated 9.1.2003 be interfered with.

4. All the above points were forcefully reiterated by Shri S. Rajappa, learned counsel for KVS. On the other hand, Shri A.K. Bhardwaj appearing for the Yoga Teachers, hotly counters the above and points out that KVS

was guilty of contempt as they had denied the pay and allowances to his clients who were continuing on the strength of Tribunal's stay order. He, therefore, prayed that the instant CP be dismissed.

5. We have carefully considered the matter. The ~~unwieldy~~
acrimony in these proceedings has been brought about by both the parties. While the applicants in this CP (respondents in OA 305/2002) hold that the Yoga Teachers transferred out, have committed contempt of the Court by not joining the posts intended for them. The opposite party (applicants in OA 305/2002) claims that they had acted correctly in terms of Tribunal's orders dated 13.2.2002 and 8.3.2002. Perusal of the record makes it clear that the Tribunal had held in abeyance the relief till 31.3.2002, and thereafter upto 16.5.2002. The present applicants had obtained a stay of Tribunal's order dated 13.2.2002 on 8.3.2002, but the same was clearly not available before the Tribunal when it extended the stay upto 16.5.2002. The Tribunal, therefore, was not at all in the wrong. It is also pertinent that the Hon'ble High Court while disposing the CWP on 31.10.2002, had held the whole matter as having become infructuous. No adverse ~~inference~~ was ~~made~~ by the ~~High~~
^{drawn} High Court ~~on~~ the orders of the Tribunal. That being the case, holding in abeyance the relief of the Teachers on 16.5.2002 was correct. The present applicants should have permitted the Teachers to continue in the Schools where they were transferred from and paid them 50% of their pay and allowances. However, once the same period was over, the applicants in the OA (the respondents in

the CP) should have got themselves relieved and reported at their new places of posting. If they have not done so, the authorities would be fully free to deal with the concerned individuals by enforcing their attendance and/or disciplinary action, if they do not fall in ^{line.} l No order from the Tribunal is called for in this connection.

6. As had been pointed out time and again by the Hon'ble Supreme Court, powers of contempt are vested in the Courts and Tribunal to ensure that the judicial orders are given effect to, unless set aside or modified and to uphold the majesty of law. (Sudhakar Prasad vs. Govt. of Andhra Pradesh - JT 2001 (1) SC 204 and S.C. Poddar Vs. Dhani Ram and Ors. - (SCALE) 2001 (8) 452). The applicants in this CP, if they correctly felt that the respondents (original applicants) were holding on to their posts inspite of the Tribunal's orders dated 13.2.2002 and 8.3.2002 having been set aside, should have come up before the Tribunal, which they had not done. In fact, no order has been produced before the Tribunal that its order dated 8.3.2002 has been ^{gsc.} stayed or modified by the Hon'ble High Court, which they could have done. Tribunal's order, therefore, stood up to 16.5.2002 and nothing could have been ordered. Tribunal's stay got automatically vacated on 16.5.2002 and KVS could have taken steps to relieve the teachers, as they were their employees, under their disciplinary control. No order from the Tribunal is called for.

7. In the above view of the matter, we do not find that the present applicants (respondents in OA) have not

made out any case for directing contempt action against the respondents (original applicants), C.P., in the circumstances, is dismissed and the notice is discharged.

S. Raju
(SHANKER RAJU)
Member(J)

(Govindan S. Tampl)
(GOVINDAN S. TAMPI)
Member (A)

/pkr/