

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 180/00085 of 2016

Tuesday, this the 10th day of December, 2019

CORAM

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

P.Susmita Nair,
W/o K.Santhosh Kumar,
Aged 45 years,
formerly PGT English,
Jawahar Navodaya Vidyalaya,
Chara, Hebri, Udupi District,
Karnataka,
Presently residing at "Sauhrudam",
Lakkidi P.O., Ottappalam,
Palakkad-679 301, Kerala. ... Applicant

(By Advocate Mr. V.Sajithkumar)

Versus

1. The Union of India,
represented by Secretary to Government,
Department of School Education and Literacy,
Ministry of Human Resource Development,
Government of India,
New Delhi – 110 001.

2. The Navodaya Vidyalaya Samithi,
represented by its Director,
B-15, Institution Area, GB Nagar,
Sector-62, Noida,
Uttar Pradesh – 201 309.

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3. The Deputy Commissioner,
Regional Office,
Navodaya Vidyalaya Samiti,
270, Senapati Bapat Road,
Pune – 411 016.
4. The Principal,
Jawahar Navodaya Vidhayalaya,
Nizampur Raigad,
Maharashtra – 402 120. **..... Respondents**

(By Advocate, Mr.N.Anilkumar, SCGSC for Respondents-1 and Mr.Millu Dandapani for Respondents-2to4)

This application having been heard on 3rd December, 2019, the Tribunal on 10th December, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.85/2016 is filed by Smt.P.Susmita Nair, former PGT English, Jawahar Navodaya Vidyalaya, who is currently working under the Department of Education, Government of Kerala, aggrieved by refusal on the part of the respondents in reimbursing the one month salary deducted in lieu of notice period on her technical resignation from service. The impugned order dated 11.12.2015 is at Annexure A1.

2. The applicant had been engaged under the Respondent-2 with effect from 04.12.1998 and served upto 30.06.2015. She had applied for the post

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of High School Assistant in the Kerala Government through proper channel in the year 2006 (Annexure A2). Her candidature had also been supported by No Objection Certificate issued by the 3rd Respondent, which was presented at the interview by the applicant. By Annexure A4 order dated 28.05.2015, she was appointed as a High School Assistant under the Department of Education, Government of Kerala.

3. On receipt of this appointment order, she had applied for being relieved from duty as per Annexure A5 dated 01.07.2015. The same was accepted by the 3rd Respondent, who relieved the applicant with effect from 01.07.2015. However, one month salary in lieu of notice period was recovered from the applicant. In order not to forgo her appointment for the position in the State of Kerala, the applicant remitted one month salary and got herself relieved. She contends that the recovery of one month salary in lieu of notice period is illegal and unauthorised. As per RTI information received from the 2nd Respondent, Annexure A8 and Annexure A9 relevant rules do not envisage any such recovery. She filed a representation to the 3rd Respondent, copy of which is at Annexure A10. However, the same was rejected as per Annexure A11 order.

4. In the reply statement filed by the Respondents-2 to 4, the jurisdiction of this Tribunal is questioned, on the ground that the applicant is not posted to a civil post under the Union. The main argument raised on

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behalf of the respondents is that the applicant had been in a great hurry to get relieved and had voluntarily decided to forgo one month salary in lieu of notice period.

5. Heard Shri V.Sajithkumar, learned Counsel for the applicant, Shri N.Anilkumar, learned SCGSC for Respondent-1 and Shri Millu Dhandapani for Respondent-2to4. All pleadings were examined and respective contentions analysed.

6. The action of the respondents in having insisted on recovering one month salary in lieu of the notice period is not seen supported by any of the regulations of the Sangathan. Under the circumstances, the OA succeeds. The applicant is liable to be reimbursed the one month salary already deducted along with interest at relevant GPF rates. The same shall be done within a period of two months from the date of receipt of a copy of this order. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00085/2016

- 1.** Annexure A1 - True copy of the Order No.PF/PGT-Eng/SPN/NVS(PR)/2015/3114 dated 11/12/2015 issued by the 3rd Respondent.
 - 2.** Annexure A2 - True copy of the forwarding letter PF/SN/JNVC/2006-07/518 dated 09/11/2006 issued by the Principal to the 3rd Respondent.
 - 3.** Annexure A3 - True copy of the No Objection Certificate No.7-23/PSN/NVS(PR)/08/2009/2877 dated 23/10/2009 issued by the 3rd Respondent.
 - 4.** Annexure A4 - True copy of the Appointment Order No.A1/6321/2014 dated 28.05.2015 issued by the Director of Education, Palakkad.
 - 5.** Annexure A5 - True copy of the Representation along with No Dues Certificate dated 01/07/2015.
 - 6.** Annexure A6 - True copy of the Order No.PF/PSN/PGT/NVS(PR)2015/1164 dated 30/06/2015 issued by the 3rd Respondent.
 - 7.** Annexure A7 - True copy of the extension order No.A1/6321/2014 dated 22/06/2015 issued by the Deputy Director of Education, Palakkad.
 - 8.** Annexure A8 - True copy of the letter under RTI dated 30/07/2015 to the 2nd Respondent.
 - 9.** Annexure A9 – True copy of the Reply dated 26/08/2015 issued by the 2nd Respondent.
 - 10.** Annexure A10 - True copy of the Representation dated 28/09/2015 submitted by the Applicant to the 3rd Respondent.
 - 11.** Annexure R-3(a) - True copy of the applicant's letter dated 01.07.2015 addressed to the 4th respondent.
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