

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 714/2019

Reserved on: 11.12.2019
Pronounced on: 20.12.2019

Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)

Asha Singh w/o Shri Bhupeshwar Pratap Singh, aged 58 years, R/o B-178, Mangal Marg, Bapu Nagar, Jaipur-302015, presently working as Primary Teacher, Kendriya Vidyalaya No.3, Jhalana Institutional Area, Jaipur, Mob.9772453097. Group 'C'.

...Applicant.

(By Advocate: Shri Anupam Agarwal)

Versus

1. Union of India through Secretary, Ministry of Human Resource & Development, Shashtri Bhawan, New Delhi-110001.
2. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. Deputy Commissioner, Kendriya Vidyalaya Sangathan, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015.

...Respondents.

(By Advocate: Shri V.D.Sharma)

ORDER

Per: A.Mukhopadhaya, Member (A):

The present Original Application, (OA), arises from the issue of a chargesheet/memorandum to the applicant by the respondent Kendriya Vidyalaya Sangathan, (KVS), in which

(2)

it has been alleged that she secured a position as Primary Teacher, (PRT), in the KVS on the basis of a B.Ed. degree from the Mahila Gram Vidyapitha/Vishwavidyalaya, (Women's University), Prayag Allahabad, (UP), (hereinafter termed "**MGV**"), which has been found to be a fake University/Institution "**not empowered to confer any degree**"; (Annexure-I to impugned order at Annexure A-1 refers). The chargesheet described the alleged act on the applicant's part as being "**tantamount to a serious misconduct which is violative of Rule 3 (1) (iii) of the C.C.S. (Conduct) Rules, 1964**". The applicant contends that during the process of her appointment as PRT in 1993, she went through the entire procedure prescribed by the respondents for the same including the process of interview and verification of documents and that, as recorded by the respondents themselves, (Annexure A/2 refers), all the particulars of her application were found to be "**checked & found correct.**" Consequent upon this, she was given an offer of appointment on 13.09.1993, (Annexure A/2 – page 33 of the Paper Book), and thereafter confirmed in service vide KVS order of 31.08.1998, (Annexure A/2 – Page 37 Item No.71 of the Paper Book refers). The applicant avers that after a long period of service with the respondent KVS, she was served a show cause memorandum on 21.06.2016, (Annexure A/3), in which her B.Ed. degree from MGV was

(3)

sought to be de-recognised on the basis of University Grants Commission, (UGC), letter No.F.6-3/2000(MPC) of February 2002, (Annexure A/7), as well as Public Notice No. F.7-3/2012(MPC) of May 2014, (Annexure R/5 page 181 of Paper Book refers), which declared the MGV to be a fake University/Institution. The applicant avers that she replied to this notice vide representation dated 02.07.2016, (Annexure A/5), requesting the respondents to drop proceedings against her but that she received no reply with regard to their decision on the same. Instead, she was served with another show cause memorandum dated 11.06.2019, (Annexure A/6), i.e. almost three years later, repeating the same allegations as were made earlier and although she again responded to the same, (Annexure A/6 – Paper Book page 46 onwards refers), on 22.06.2019, the impugned chargesheet dated 26.07.2019, (Annexure A/1), was issued unjustly and illegally to her. Aggrieved by this action of the respondents, the applicant has now approached this Tribunal seeking the following relief:

That the impugned charge memorandum dated 26.07.2019 and enquiry proceeding in pursuance thereof be quashed and set aside.

Any other order, direction or relief which is deemed fit, just and proper under the facts and circumstances of the case be passed in favour of the applicant.

(4)

2. In support of her application, the applicant has pleaded as follows:

i) that the charge sheet has been issued without consideration of the earlier reply of the applicant to the show cause memorandum dated 11.06.2016, (Annexure A/6), wherein the applicant, referred to the judgment dated 25.10.2004 passed by the Bangalore Bench of this Tribunal in the case of **Smt. Raminder Duggal vs. Kendriya Vidyalaya Sangathan**, (Annexure A/6 – pages 50 to 67 of the Paper Book refer), and the judgment dated 15.05.2008 passed by the Principal Bench of this Tribunal in the case of **Smt. Tripti Dutta Pvt. Group C, vs. Union of India**, (Annexure A/15 – pages 200 to 206 of the Paper Book refer), wherein the Tribunal had quashed a similar charge memorandum noticing the DO letter No.F-35/65, HI dated 29th September, 1965 of the Ministry of Education, Government of India, which specifically stated as follows:

“As the examinations conducted by your vidyapitha have already been accorded recognition by several universities, no further recognition is needed. For all purpose, the Government will accept this recognition”.

ii) The applicant contends that she had confronted the respondent KVS with the aforementioned judgments as well as the contents of the letter as above and that while the

(5)

letter in question has not been withdrawn till date, the respondent KVS had also not rebutted the same in any meaningful way.

iii) The aforementioned judgment of the CAT Bangalore Bench was affirmed by the Hon'ble High Court of Karnataka vide their order dated 15.07.2011 in WP No.326/2005 (S-CAT), (Annexure A/16), and that this is therefore a final judicial order which relates directly to the validity/recognition of the B.Ed. degree obtained by the applicant from MGV in 1990.

iv) The applicant also contends that in any case, a declaration of MGV as a fake institution by UGC in February 2002 and October 2018, (Annexure A/7 – pages 68 to 71 refer), cannot be applied retrospectively to a degree obtained by her from this institution which even now enjoys government recognition; [para 13 of CAT Bangalore Bench judgment in the case of Smt. Raminder Duggal, (supra) refers].

v) As regards inquiry proceedings initiated vide the impugned chargesheet dated 26.07.2019, (Annexure A/1), the applicant contends that many irregularities have been committed while conducting this inquiry, (para 4.9 of rejoinder to the reply to the OA refers), in as much as the scope of the inquiry has been extended beyond the charges

(6)

framed and the presenting officer has examined the applicant even prior to her submitting her defence. The inquiry has also recorded a finding that there are no witnesses to be examined without asking the applicant to furnish any list of witnesses.

3. In reply, the respondents argue that since this inquiry against the applicant is still in progress and no final orders have been passed in the same, this OA is premature in that the applicant is at liberty to plead all facts and circumstances supporting her case before the Inquiry Officer.

4. Coming to the merits of the case, the respondents, while not contradicting the facts and circumstances related to the recruitment/appointment of the applicant as PRT, have placed reliance on a UGC letter of October 2018, (Annexure R/5 page 179 of Paper Book), which states that MGVS **"is not a University and is not empowered to confer any degree. It was never recognised by the UGC before or after 1990-2002"**. They also aver that the UGC letter of 22.09.2016, (Annexure R/5 – page 180 of the Paper Book), has stated that MGVS **"is not included in the list of Universities as maintained by UGC."** Citing the judgment of this Bench dated 28.05.2014 in OA

(7)

No.806/2012 in the case of **Madhvi Sharma vs. Union of India and Another**, (Annexure R/1), the respondents contend that in that case too, the Tribunal had rejected the claim of that applicant who had a degree, admittedly from a different institution, viz. Varanasya Sanskrit Vishvavidyalaya, which was also a fake/unrecognised institution like the MGV and that this decision had been upheld by the Hon'ble High Court of Rajasthan in its judgment dated 06.04.2017 in D.B.Civil Writ Petition No.11539/2014 and further affirmed by the Hon'ble Supreme Court vide order dated 19.02.2018; (Annexure R/4). Accordingly, they contend that this issue is settled in principle upto to the Apex Court level and in the circumstances, this OA be dismissed.

5. Learned counsels for the parties were heard and the material available on record was perused. Learned counsel for the applicant and the respondents reiterated the arguments made in the OA and the reply to the same respectively.

6. Learned counsel for the applicant in addition, drew this Tribunal's attention to the language of the show cause notice issued in this case on 21.06.2016, (Annexure A/3), as well as letter dated 11.06.2019, (Annexure A/6), both of which

(8)

refer to a **“disciplinary proceeding for terminating of her KVS services”** and contended that the use of these words clearly indicate that even prior to initiating this inquiry, the respondents had made up their mind as regards the outcome of the same and while there is no allegation of personal malafide, the inquiry stands vitiated on this count alone. Further, as regards the objection of the respondents that the applicant has not exhausted all other remedies available to her before approaching this Tribunal, learned counsel for the applicant pointed out that it is not being disputed by the respondents that the applicant’s reply dated 02.07.2016, (Annexure A/5), to the earlier show cause memorandum dated 21.06.2016, (Annexure A/3), still remains to be responded to in specific terms. As such therefore, this reply at Annexure A/5 falls within the category of a representation which has not been responded to for a period of six months or more, thus rendering this OA admissible in terms of Section 20 (2) (b) of the Administrative Tribunals Act, 1985. He further argued that if, on the contrary, the present round of show cause memorandum and subsequent chargesheet, (Annexures A/1 and A/6 respectively), are taken to be the respondents’ decision/final order on the applicant’s representation of 02.07.2016, (Annexure A/5), then the applicant is entitled to

(9)

come before this Tribunal with this OA in terms of Section 20(2)(a) of the Administrative Tribunals Act, 1985.

7. It is undisputed in this case that the reply/representation of the applicant dated 02.07.2016, (Annexure A/5), to the earlier show cause memorandum issued to her on 21.06.2016, (Annexure A/3), has not been disposed of by the respondents by way of any final and speaking order. If the present round of show cause memorandum and chargesheet, (Annexures A/1 and A/6 respectively), are taken to be the final decision/order on this, then, as contended by the learned counsel for the applicant, the matter can be agitated before this Tribunal in an OA. Thus, we find the preliminary objection of the respondents to be without substance in this case.

8. Coming to the merits of the case, we notice that both parties have cited final judicial orders in support of their arguments and the essential question therefore becomes one in which it is to be seen as to which of the judicial proceedings/cases are relevant to the present case. In this connection, it is noticed that the citations in Smt. Raminder Duggal, (supra) and Smt. Tripti Dutta Pvt Group C, (supra), given by the learned counsel for the applicant relate to both the degree as well as the institution concerned in the

(10)

present case whereas the citation in Madhvi Sharma, (supra), relied upon by the learned counsel for respondents, relates to another institution viz, Varanasya Sanskrit Vishvavidyalaya and also a situation in which the applicant in that case was given an opportunity to obtain a degree from another recognised institution but failed to do so. Thus, we find that the facts and circumstances of this case correspond almost in their entirety to the citations relied upon by the applicant's counsel and are substantively different from those pertaining to the case of Madhvi Sharma; (supra).

9. Coming now to the specific judgment rendered by the Bangalore Bench of this Tribunal in the case of Smt. Raminder Duggal, (supra), relied upon by the applicant, it is further noted that the Tribunal had specifically noted the recognition granted to MGVS by the Ministry of Education, Government of India vide its DO letter No.F-35/65, HI dated 29th September, 1965, which presumably continues till date as learned counsel for the respondents was unable to rebut the applicant's averment in this regard. Not only this, it is noticed by us that in the case of **Suresh Pal and Others vs. State of Haryana and Ors.** (AIR 1987 SC 2027), the Apex Court has effectively ruled that where an institution is not recognised for the purposes of issuing a particular

(11)

degree on a given date, degrees issued by it before that date do not automatically get derecognised; (para 3 of judgment refers). In the present case, the degree now being questioned by the respondents on the basis of derecognition of the institution as declared in 2002 was obtained around 12 years earlier in 1990. In the given facts and circumstances and in the light of the principles laid down by the Apex Court in the case of Suresh Pal, (supra), it would be highly unjust and unreasonable to extend the fact of the derecognition of MGV by the UGC to derecognising degrees granted by that institution 12 years prior to such declaration, especially as it appears that the recognition of the institution by Government of India, (Ministry of Education), continues till date. Again, as a reading of the Annexure A/14 clearly indicates, the respondents chose to continue with the inquiry even in the absence of her defence assistance; (Annexure A/14 pages 96 to 97 of Paper Book refers). Coupled with the language of the show cause notice issued in this case on 21.06.2016, (Annexure A/3), and again on 11.06.2019, (Annexure A/6), both of which refer to a **“disciplinary proceeding for terminating of her KVS services”**, there does appear to be substantive indication that the results of the inquiry have also perhaps been seen as being a foregone conclusion by the respondents.

(12)

10. Thus, given the above detailed facts and circumstances of this case, we deem this to be a case where the chargesheet issued to the applicant is vitiated both in terms of its non-adherence to law as established by the Hon'ble Supreme Court in the case of Suresh Pal, (supra), as well as prescribed procedures and principles of natural justice.

11. Consequently, the OA succeeds and the impugned charge memorandum dated 26.07.2019, (Annexure A/1), and the entire inquiry proceedings in pursuance thereof are quashed and set aside.

12. There shall be no order on costs.

(A.Mukhopadhyaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

/kdr/