

**Central Administrative Tribunal
Principal Bench**

OA No. 2074/2014

New Delhi, this the 18th day of February, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Ms. Suman Devi,
D/o Sh. Sube Singh,
R/o H.No. 324, Village & Post Office,
Begum Pur, Delhi-110086
Aged about 34 years,
(Asstt. Teacher)

- Applicant

(By Advocate : Shri Ajesh Luthra)

Vs.

1. Govt. of NCT of Delhi,
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya,
New Delhi
2. The Director,
Directorate of Education,
GNCT of Delhi,
Old Secretariat, Delhi
3. Deputy Director of Education,
Distt. North West (B)
FU Block, Pitampura,
Delhi-110088
4. The Head of School,
Govt. Sarvodya Kanya Vidyalaya,

Sector-1, Avantika,
Rohini, Delhi-85

- Respondents

(By Advocate : Shri Sourabh Chadda)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

The applicant was selected and appointed as an Assistant Teacher in the Directorate of Education of Govt. of NCT of Delhi, through order dated 19.03.2009 and she joined the service on 04.06.2009. She was kept on probation for a period of two years, but it was extended by one year through order dated 07.06.2011. On 20.05.2011, the Deputy Director of Education, the 4th respondent herein, issued a show cause notice to the applicant under Rule 5 of the CCS (Temporary Service) Rules, stating that against the relevant column in the application form, she stated that no criminal case is pending against her, but on verification, it emerged that she figured as accused in FIR No. 74/2009 on the file of PS Vijay Vihar, Delhi. She was required to explain as to why action be not initiated against her under Rule 5 of the CCS (Temporary Service) Rules. The applicant submitted her explanation. The 3rd respondent issued a notice of termination on 24.06.2011. This OA is filed, challenging the order of termination as well as the show cause notice.

2. The applicant contends that the 3rd respondent is not her Appointing Authority (AA), and the show cause notice as well as the impugned order issued by him, are without jurisdiction. On facts also, the applicant has raised several contentions.

3. The respondents have filed a counter affidavit, stating that the Deputy Director is a competent to issue a notice as well as the order of termination.

4. We heard Shri Ajesh Luthra, learned counsel for the applicant and Shri Saurabh Chadda, learned counsel for the respondents.

5. Though the applicant raised several grounds, touching on merits, we do not intend to deal with the same. It is not in dispute that she was appointed on regular basis, to the post of Assistant Teacher. A show cause notice was issued to her, alleging that she misrepresented the facts, pertaining to involvement in a criminal case. In case, the show cause notice was issued by the competent authority, it was certainly open to him, to examine the issue, depending upon the reply given by the applicant. The AA for the post of Assistant Teacher is Director, i.e., the 2nd respondent. For reasons best known to him, the 3rd respondent issued the show

cause notice. Further, it is he who passed the final order, terminating the service of the applicant.

6. It is relevant to mention here that the 3rd respondent is very much aware of the fact that he is not the competent authority in this behalf. For extending the probation of the applicant, he issued an order dated 07.06.2011 which reads as under:-

“I am directed to convey the approval of competent authority for extension of probation period for one year w.e.f. 09-06-2011 to 08-06-2012 in respect of Ms. Suman Devi, Asstt. Teacher, GSKV, Sec 1, Avantika, Delhi for concealing facts in her attestation form col. 12(a) regarding her arrest vide FIR 74/09 dt. 04.03.2009 u/s 452/323/34 IPCF pending in trial court, registered at P.S. Vijay Vihar, Delhi.

This issued with the prior approval of competent authority vide UO 4297 dt. 27.5.2011.”

7. The 3rd respondent took the approval of the competent authority, i.e., the Director, for extending the probation. It is just un-understandable as to how he has chosen to issue the show cause notice, and thereafter, the order of termination by himself without the approval of the 2nd respondent.

8. On this short ground, the OA is allowed, and the impugned orders are set aside. However, we leave it open to the 2nd respondent to take the necessary steps, in accordance with law. The applicant shall be reinstated into service forthwith. The manner, in which the period between the date of termination, i.e., 26.07.2011 and the date of reinstatement must be treated, shall be decided by the 2nd respondent while passing the orders as indicated above.

9. There shall be no order as to costs.

Order 'dasti'.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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