

Central Administrative Tribunal
Principal Bench, New Delhi

OA No. 140/2019

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

Hon'ble Mr. Ashish Kalia, Member (Judicial)

Kirtan Kumar

Aged about 63 years, Goup B

Ex-Principal, Kendriya Vidyalaya

H 571, Palam Vihar Gurgaon

-Applicant

(By Advocate: Mr. Ramesh Shukla for Mr.Amit Yadav)

Versus

Kendriya Vidyalaya Sangathan Through

1. Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Saheed Jeet Singh Marg,
New Delhi-110016
2. Joint Commisioner(Admn.)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Saheed Jeet Singh Marg,
New Delhi-110016.
3. Asstt. Commissioner (Vig)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Saheed Jeet Singh Marg,
New Delhi-110016.

- Respondents

(By Advocate: Ms. Rashmi Bansal, Sr. Standing Counsel with
Mr. Shubham Popli & Mr. Nitesh)

R D E R (ORAL)

This Original Application has been filed by the applicant under Section 19 of the Central Administrative Tribunal's Act., 1985, seeking for the following relief(s):-

- “(i) Issue order or direction against respondents for releasing all the dues of the Applicant including gratuity, leave encashment with interest at the rate of 18% computed with effect from 05.06.2002 till the date of actual payment.
- (ii) Issue order or direction against respondents for releasing one month's salary on termination of Principalship (temp) with three month's salary on termination of PGT ship with interest.
- (iii) Direct the respondents to pay to the applicant costs of the present proceedings
- (iv) Pass any other or further order(s) as this Hon'ble Tribunal may be pleased in the premises of this case. ”

2. After hearing the learned counsel for the respondents, this Tribunal is of the view that applicant has challenged Annexure A-1 dated 08.01.2003, whereby a show cause notice has been issued to the applicant under Article 81(d)(3) of the Education Code for confirmation. Learned counsel for the respondents submitted at the bar that much water has been flown and thereafter the applicant has been dismissed from the service. The competent authority has passed the following order:-

“Sub:- Order of provisional loss of lien on post held and show cause notice under Article 81(d) (3) of the Education Code for confirmation thereof.

Shri/Smt. Kr. Kirtan Kumar, PGT(Chem.) hereby informed that he/she has been remained absent for a period of fifteen days or more from 06.06.2002 to till

date without sanctioned leave or beyond the period of leave originally granted or subsequently extended. Shri/Smt./Km. Kirtan Kumar has neitehr reported for duty within the aforesaid period of 15 calendar days nor satisfactorily explained the reasons for his absence. In terms of sub-clause (1) of clause (d) of Article 81 of the Education Code, he is deemed to have voluntarily abandoned his service and hereby provisionally lost lien on his post.

As required under sub-clause (3) of Article 81, this order is hereby made recording the factum of voluntary abandonmen of service by Shri/Smt.Km. Kirtan Kumar and provisional loss of his lien on (Post) and the same is hereby communicated to him accordingly.

As further required under Sub-clause (3) of clause 9d) of Article 81, Shri /Smt./Km. Kirtan Kumar is hereby given the opportunity to show as to why the aforesaid order of provisional loss of lien should not be confirmed.

Shri/Smt./Km. Kirtan Kumar may make written representation to the undersigned within 10 days of the receipt of this order, failing which an order shall be passed confirming loss of lien on the post held by him/her and, in that case, he /she shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan as per the provisions of Article 81 (d)."

3. The applicant has not challenged the order of his removal / termination order. The applicant simply prayed in this OA issue order or direction against respondents for releasing all the dues of the applicant including gratuity, leave encashment with interest at the rate of 18% computed with effect from 05.06.2002 with consequential benefits. The applicant has challenged the show cause notice dt. 08.01.2003 issued by the respondents. Thereafter Applicant's services were terminated after giving due opportunity which applicant preferred an appeal against the said order on 13/17.03.2003

which was rejected vide order dt. 24.09.2003 by the Authority concerned and his terminal benefit were withheld. Thus, this Tribunal is of the view the applicant has to question the order by filing separate proceedings in accordance with law. The same is dismissed in view of subsequent order passed for removal from service. However the applicant is at liberty to challenge the penalty order in accordance with the law.

(Ashish Kalia)
Member (J)

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