

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

RA 73/2002  
in  
OA 948/2001

New Delhi, this the 24th day of April, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Govt. of NCT of Delhi.

...Applicants  
(respondents in OA)

V E R S U S

Ajay Kumar Shokeen & Ors.

...Respondents  
(applicants in OA)

O R D E R

By Hon'ble Shri Govindan S.Tampi,

RA 73/2002, is filed by the Govt. of NCT of Delhi (respondents in the OA 948/2001), seeking the recall and the review of Tribunal's order dated 24-1-2002, issued while disposing of the above application.

2. I have considered the matter. The application filed by three applicants against the restraint placed on them from performing their duties as TGTs in one of the Schools under the Delhi Administration, has been disposed of by me by allowing the application partially on 24-1-2002. The relevant portion of the order reads as below :-

"6. I have carefully considered the matter. Applicants in this OA seeks that their relief w.e.f 1.7.2000 be declared illegal as they were not relieved by regularly appointed teachers and they were not given notice. Respondents on the other hand point out that the applicant's case was different and having obtained the jobs improperly, they have to vacate their posts, even without being given any notice. The applicants are teachers appointed on contract basis with automatic termination clause, modified to continuity in service till the regulars join the post a

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proposition upheld by the Tribunal, Hon'ble High Court and Hon'ble Supreme Court. Therefore under normal circumstances, they would have been laid off only when the regular teachers joined. However the applicants are placed in a different situation in that they are Social Science teachers posted wrongly against the vacancies of English and Maths teachers. This irregular arrangement of 'adjustment' has been stopped by the Director of Education leading to the restraint placed on the applicants to continue in the posts. The applicants, therefore, cannot pray that they should be permitted to continue till the regular teachers join from their stream, as no regular vacancies are present in their stream. They have, therefore, to vacate their seats. The respondents' direction to place restraint on their joining duties cannot be assailed in law. However, as they had been engaged on contract basis originally, even if against vacancies of other subjects on their relief one months' notice or one months remuneration in lieu thereof was called for. Respondents' averment that the same was not called for is against the principles of fairness and does not have any sanction in law. The same would not merit endorsement.

7. In the above view of the matter, the application succeeds but partially and is accordingly disposed of. While upholding the action of the respondents restraining the applicants from performing their duties w.e.f. 1.7.2000, I direct that the respondents shall give to them one month's remuneration Rs. 6,000/- in lieu of notice for discharging their services. No costs."

3. The point raised in the review application is that as the decision of the respondents with reference to dispensing with the services of the applicants, has not been interfered with, grant of relief by way of one month's remuneration was not correct and therefore warranted recall and review. Reference is also made in the RA to the OA 896/2001, filed by Ms. Anju, decided on 03.08.2001, as well as OA No.896/2001, filed by Shiv Kumar decided on 12.11.2001, whereunder the OAs were dismissed. The same action should have been taken in respect of this case also pleads the review applicant.

4. In the instant OA, the applicants were contract Teachers in Social Science who were posted

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wrongly against the vacancies of English and Maths Teachers who were appointed by the Competent Authority and had to vacate their seats when this arrangement was changed under the directions of the Directorate of Education. These are not cases where they had to vacate their positions when regular appointee of the same stream came or <sup>were</sup> ~~was~~ asked to hand over the charge in terms of the High Court's order. That being the case while they did not have a vested right to continue and had to vacate but as they had not been put on notice, I had ordered that they be paid one months remuneration. Decision referred to in RA can thus be distinguished.

5. The review applicants have not made out any case in law, <sup>The same therefore</sup> fails and is accordingly dismissed.

(GOVINDAN S. TAMPI)  
Member (A)

/vksn/