

Central Administrative Tribunal
Principal Bench

18

O.A.No.1528/2001

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 9th day of July, 2002

Ms. Anita Verma
w/o Vikram Verma
r/o 44, Shubh Enclave
Delhi (TGT, S.St., SKV, U Block)
Mangolpuri
Delhi.

... Applicant

(By Advocate: Shri S.K. Sinha)

Vs.

1. Govt. of NCT of Delhi
through the Secretary (Education)
Government of NCT of Delhi
Old Secretariat
Delhi.

2. Director of Education
Government of NCT of Delhi
Old Secretariat
Delhi.

3. Dy. Director of Education
NCT of Delhi
Distt. North West - B
F.U. Block, Pitam Pura
Delhi. ... Respondents

(By Advocate: Shri Mohit Madan, proxy of Mrs. Avnish Ahlawat)

O R D E R

By Shanker Raju, M(J):

Applicant impugns an oral order of termination and seek directions to the respondents to allow her to join duties with full salary.

2. Applicant applied for the post of Trained Graduate Teacher (Social Studies) and after declared successful in the selection, in a special drive recruitment, was appointed on contract basis on a consolidated salary with the stipulation that termination can be resorted to by giving one month's notice or pay salary in lieu thereof. In a bunch of

cases the Tribunal in OA 673/99 (Smt. Veena Anand and Others and other connected cases, by an order dated "NIL" of May, 1999 declared the aforesaid clause as inoperative and directed the respondents to continue the applicants till the regular incumbents became available. An appeal, preferred in CWP No.6363 of 1999 with others, before the High Court of Delhi was decided on 20.12.1999 striking down the directions of continuance of appointees till regular recruits replaced them. In the wake of the aforesaid directions, as a policy decision, respondents had decided to terminate the services of such appointees on availability of direct recruits. Respondents relieved the applicant from her place of posting, giving rise to the present OA.

3. Shri S.K.Sinha, learned counsel appearing on behalf of applicant, contended that applicant was relieved of her posting without following the directions of High Court and terminated her services without notice of one month or one month's salary. According to him, applicant had joined on 15.9.1998 and could have been terminated only on replacement by a regularly recruited candidate through DSSG or by a promotee. Applicant was restrained from attending her duties and without any written order in the pretext of mal-adjustment her services were terminated w.e.f. 1.7.2000. Applicant represented to the respondents, without any avail.

4. Shri Sinha stated that the principle of "Last Come First Go", which has been upheld by the Apex Court, has not been followed. The services of

the applicant has not been terminated in accordance with the rules, and the decision of the respondents is violative of Articles 14 and 16 of the Constitution of India.

5. Respondents, however, denied the contentions and Shri Mohit Madan appearing on behalf of Mrs. A. Ahlawat, contended that in CWP No.6363/99, even contract teachers have been held to have no right to continue on the post and have to give way to the regularly selected teachers.

6. Applicant was engaged as TGT (Social Studies) on contract basis in SKV School where no vacant post of TGT (SS) existed. This appears to be an illegal appointment by the Deputy Director of Education vide his letter dated 14.9.1998. Since there was no post of TGT (SS), the salary of the applicant was drawn against the post of TGT (English) from 15.9.1998 to May, 2000, and thereafter, against the post of Language Teacher (Hindi) for the month of May. As the applicant was allegedly mal-adjusted against the post of TGT (English) she could not have been appointed to the post of TGT (Social Studies), has no right to continue on the post. As soon as the above mal-adjustment had come to the notice of the Director of Education, and it was found that the applicant could not have been appointed as a contract teacher in absence of vacancy of that particular subject, an order was issued on 5.5.2000 by the Director to the Principals of the Schools to strictly comply with the directions failing which they have to be personally liable in case of any irregularity was

found. In consequence thereof, all mal-adjusted teachers had to go back to their respective Schools and in so far as contract teachers are concerned, as the appointments were illegal the incumbents were not allowed to continue beyond 1.7.2000.

7. Respondent's counsel stated that applicant has been replaced by Shri Prakash Gupta on promotion to the post of TGT by an order dated 29.12.2000, who has joined on 5.7.2001. Since no post of even language teacher was lying in the School, applicant could not be continued as contract teacher (Social Studies). It is stated that in similar circumstance, OA 933/2000 (M.S.Anju Vs. Govt. of NCT and Others) was dismissed on 30.7.2001 and further referred to a decision of the Tribunal in Shiv Kumar Vs. Govt. of NCT of Delhi, OA No.896/2001 (decided on 12.11.2001) where similar view was taken. Explaining the vacancy position, it is stated that 7 posts of TGT (Social Studies) were filled up by regularly appointed teachers.

8. I have carefully considered the rival contentions of the parties and perused the material on record. In view of the directions of the High Court in Writ Petition, that contract teacher would be replaced by a regularly appointed teachers through DSSE or through promotion, a contract teacher has no vested right to continue and is liable to be replaced by regularly promoted or selected candidate. In case of applicant, the initial appointment was not against any sanctioned post, but was mal-adjustment resulting in drawl of salary against the post of TGT (English)

and Language Teacher (Hindi). It is apparent that she was adjusted against the post of TGT (English) and having no vacancy of TGT (Social Studies), the decision of the Director has been implemented. As a consequence, applicant was not continued further. In absence of any post of TGT (SS) applicant has no indefeasible right to continue. All these posts have already been filled up as per relevant details provided by the respondents. Moreover, applicant has been replaced by a regularly promoted Teacher, who joined on 5.6.2001. Action of the respondents is in consonance as well in compliance of the directions of the High Court.

9. In the cases of Anju and Shiv Kumar supra the Co-ordinate Benches have already taken similar views.

10. In the result and having regard to the reasons recorded above, I do not find any merit in the present OA which is accordingly dismissed. The interim order is vacated. No costs.

S. Raju

(Shanker Raju)
Member (J)

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