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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1966/2001

~~ This the 20th day of December, 2002

HON'BLE SH. SHANKER RAJU, MEMBER (J)

Vinita Tyagi
w/o Sh. Sunil Tyagi,
TGT (English)
Govt. Girls Sec. School,
Vijay Enclave,
New Delhi.

R/o F-39, Bali Nagar,
New Delhi-110015.

(By Advocate: Sh. S.K.Sinha)

Versus

1. Govt. of NCT of Delhi
Through the Secretary Education
Players Bhawan,
I.P.Secretariat,
New Delhi.
2. Director of Education,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi.
3. Dy. Director of Education
Distt. South West,
C-4, Vasant Vihar,
New Delhi.

(By Advocate: Sh. Mohit Madan proxy for
Mrs. Avnish Ahlawat)

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O R D E R (C.W.P.)

Applicant through this OA impugns respondents corrigendum to their order No.42 dated 20.7.2001 whereby contract appointment of the applicant as TGT (English) has been terminated.

2. Applicant was appointed in pursuance of advertisement by the respondents as a TGT (English) on contract basis. Through an order passed by the Tribunal on 7.5.99 in a bunch of cases automatic termination clause was set aside but on filing CWP in the Hon'ble High Court by an order dated 20.12.99 court

modified the directions and therein a contract Teacher is to be replaced by a regular Teacher. SLP against this order was dismissed on 4.1.2000. Applicant filed another OA-499/2000 seeking relief of continuation in service which was dismissed on 27.10.2000 against which CWP was also rejected on 23.7.2002.

3. Sh. Sinha appeared for the applicant, allege malafides against the respondents by contending that the applicant is replaced by one Bimla Devi a Primary Teacher in NCT who was promoted to the post of TGT by an order passed on 20.7.2001 and thereafter a corrigendum was issued whereby service of applicant were terminated and no notice for one month was issued and no salary has been paid whereas the applicant was on leave. He invokes the principle of "last come first go" and states that the action of the respondents is violative of Article 14 and 16 of the Constitution of India.

4. On the other hand, Sh. Mohit Madan appearing as proxy for Mrs. Avnish Ahlawat, denied the contention and stated that as the services were engaged through a contract, the condition of one month's notice cannot be imposed upon the respondents and in the light of modified decision of the Tribunal by the Hon'ble High Court and as upheld by the Hon'ble Supreme Court and also in the light of decision of this Court in OA 933/2000 Anju vs. Govt. of NCT of Delhi as well as OA-1528/2001 Anita Verma vs. Govt. of NCT of Delhi a similar claim has been dismissed by holding that condition of giving one month's notice or salary in lieu of that notice is not required as per the terms of the contract has been modified by the Court.

5. Applicant is being replaced by a regularly selected candidate and as in order No.42 inadvertently name of one Ms. Rekha, contract Teacher was typed instead of the applicant whereas Ms. Rekha left the school way back on 22.12.99. A corrigendum was issued.

6. In the light of the decision of the apex court applicant has no right to continue on contract basis on availability of regularly appointed Teacher.

7. I have carefully considered the rival contention of the parties and perused the material on record. Malafides as alleged by the applicant in this OA are unfounded without any credible material to support. The corrigendum has been issued on a mistake which is permissible in law.

8. In so far as salary for the notice period or one month notice is concerned, in the light of decision of the coordinate bench in the cases of Anju and Anita Verma on modification of the directions by the Hon'ble High Court the same is no more a valid condition of the contract and this would not vitiate the order of termination.

9. The contention of the applicant is that Hon'ble High Court's decision whereby Clause A of the directions of the Tribunal has been done away and Clause B was modified to the extent that the contract workers would be replaced by regularly selected teachers, could not be construed as replacement in the event work is available. It is only in the necessity that the aforesaid exercise is to be resorted to. His contention that as earlier Ms. Rekha was to be replaced by Bimla Devi, the action of the respondents to replace her

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services despite availability of work and not resorting to replacement of Ms. Rekha clearly shows their action as de hors the directions of the High Court and his further contention that "last come first go" has not been adhered to as one Rakesh Sehrawat was not replaced and continued being junior to the applicant is concerned, the same cannot be contingued.⁴

10. The principle of "last come first go" has been followed by the respondents in so much as one Ms. ~~Rakesh~~, contract appointee was replaced by one Sh. Rajvir Singh by an order dated 12.7.2001 before the termination of the applicant but for the joining of the regularly appointed teacher he was discharged only on 10.8.2001. No other example has been cited where the juniors have been retained. As such the ground of discrimination fails.

11. In so far as the directions of the Hon'ble High Court is concerned by striking of Clause A of the directions, it has been made clear by the Hon'ble High Court that the regularly selected candidates is not to be first replaced on vacant post then the contract employee is to be replaced. However, what has been observed is that if zero vacancy position is not achieved, many teachers will continue to remain as teachers unperpetuated and will have no reason to appear for subsequent examination to be conducted by Board for direct recruitment. In this backdrop, directions have been modified to the extent that the contract teachers must give way to the regular appointees regardless of any interim orders.

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12. In the present case, reasonable justification has forthcome from the respondents whereby a corrigendum was issued that one Ms. Rekha against whom Ms. Bimla Devi was selected and Ms. Rekha was to be replaced. Certificate of the Principal shows that Ms. Rekha had already left the school on 22.12.99 as such the order was modified and Ms. Bimla Devi replaced the applicant.

13. Moreover, the schools, where Ms. Rekha and the applicants were working, are different.

14. A contract teacher has no indefeasible right to be continued indefinitely and is to be replaced by regularly appointed teacher in terms of directions of the Hon'ble High Court which cannot be interpreted in the manner as stated by Sh. Sinha.

15. In the result, we do not find any infirmity in the action of the respondents. OA is bereft of merit and is dismissed.

No costs.


(SHANKER RAJU)
Member (J)

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