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Central Administrative Tribunal
Principal Bench

✓ O.A. 2834/2001

with-

O.A. 2983/2001

New Delhi this the 22nd day of April, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri S.A.T. Rizvi, Member(A).

O.A. 2834/2001.

K.P. Dubey, TGT (Maths.),
Kendriya Vidyalaya No. 2,
NHPC, Banbasa,
PO: Chandani, Distt: Champawat,
Uttaranchal, presently
C/o Shri P.K. Mishra,
C-1/54, Railway Colony,
Chhoti More Sarai,
Delhi.

... Applicant.

(Applicant in person)

Versus

1. Shri M.M. Swamy,
The Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Salawala,
Haathibarkala,
Dehradun-248001.
 2. Shri G.S. Mehta,
The Principal,
Kendriya Vidyalaya No. 2,
NHPC, Banbasa, PO: Chandani,
Distt. Champawat (Uttaranchal).
 3. Shri V.K. Jain,
Chief Engineer,
NHPC, Banbasa,
PO: Chandani,
Distt. Champawat,
(Uttaranchal).
 4. Shri H.M. Cairae, the
Commissioner,
Kendriya Vidyalaya Sangathan
(Hqrs.),
18, Institutional Area,
Sahid Jeet Singh Marg,
New Delhi-110016.
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5. Shri Yogendra Prasad,
Chairman and Managing Director,
NHPC Ltd.,
Corporate Office, NHPC Office Complex,
Sector-33,
Faridabad (Haryana)-121003. ... Respondents.

(By Advocates S/Shri S. Rajappa - for Respondents 1,2
and 4, Ajit Pudussery - for respondents 3 and 5).

O.A.2983/2001.

G.S. Srivastava,
PGT (Chemistry),
Kendriya Vidyalaya No.2,
NHPC, Banbasa,
PO: Chandani,
Distt. Champawat
(Uttaranchal)
presently in New Delhi.

... Applicant.

(Applicant in person)

Versus

1. The Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Salawal,
Haathi Barkala,
Dehradun-248001.
2. Principal,
Kendriya Vidyalaya No. 2,
NHPC, Banbasa, PO: Chandani,
Distt. Champawat (Uttaranchal).
3. Chief Engineer,
NHPC, Banbasa,
PO: chandani,
Distt. Champawat,
(Uttaranchal).
4. Commissioner,
Kendriya Vidyalaya Sangathan
(Hqrs.),
18, Institutional Area,
Sahid Jeet Singh Marg,
New Delhi-110016.
5. Ex. Asstt. Commissioner of
Kendriya Vidyalaya Sangathan,
Dehradun Region, Dehradun
(Uttaranchal) and presently
Deputy Commissioner (Academic),
Kendriya Vidyalaya Sangathan (Hqrs.),
18, Institutional Area,
Sahid Jeet Singh Marg,
New Delhi-16. ... Respondents.

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(By Advocates S/Shri S. Rajappa - for Respondents 1,2 and 4, Ajit Pudussery - for respondents 3).

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

Both the applicants in the aforesaid Original Applications as well as learned counsel for respondents have submitted that the relevant facts and issues raised in the two applications are the same. Accordingly, we dispose of the same as well as M.A 839/2002 and M.A.840/2002 filed by respondents 1,2 and 4 by a common order. For the sake of convenience, the facts referred to in OA 2834/2001 have been referred to. In OA 2834/2001, the applicant has prayed for the following reliefs:

"(a) stay the operation of the impugned suspension order and the proceedings of the enquiry proposed by Respondent No.1.

(b) direct Respondent No. 2 to take the applicant on the duty of K.V., NHPC, Banbasa with immediate effect and to release all the back wages and other consequential benefits entitled to the applicant.

(c) further direct the Respondent No. 4 and 5 to cooperate the applicant in his efforts for the investigation in the matter of misappropriation of lakhs of rupees from the accounts of the funds of the poor students of K.V., NHPC, Banbasa.

(d) further direct the respondents not to interfere with the working of the applicant.

(e) pass such other order/orders and grant such consequential reliefs which this Hon'ble Tribunal may deem fit, proper and just in the interest of justices".

2. By order dated 25.9.2001, Respondent No.1, i.e. the Assistant Commissioner, Kendriya Vidyalaya Sangathan (KVS), Regional Office, Salawla, Hathi Barkla,

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Dehradun, Uttranchal, has passed the suspension order against the applicant who was admittedly working in KVS No.2, NHPC, Banbasa in the State of Uttranchal. The same authority has also issued charge-sheet against the applicant vide Memo dated 19.9.2001 which has also been issued from the Regional Office of the KVS at Dehradun.

3. The Tribunal vide order dated 17.10.2001 had passed an ad-interim order of stay of the inquiry proceedings started by O.M. dated 19.9.2001. According to the applicant, the aforesaid respondent had taken the impugned actions, including passing the suspension order because he had become inimical to him as he had tried to expose rampant corruption in his office at Banwasa, Dehradun.

4. In MA 840/2002 which has been filed by respondents 1,2 and 4, they have taken a preliminary objection that the Principal Bench of the Tribunal does not have territorial jurisdiction in the matter. Shri S. Rajappa, learned counsel has submitted that the applicant has also not filed any petition for transfer under the provisions of Section 25 of the Administrative Tribunals Act, 1985. He has relied on a recent judgement of the Hon'ble Delhi High Court dated 21.2.2002 in **State of Gujarat Vs. R.S. Yadav and Anr.** (CWP No.7381/2000). In the present case, learned counsel for respondents has submitted that as the applicant has not even filed a PT for having the O.A. transferred to the Principal Bench,

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the retention of the O.A. in the Principal Bench does not arise. The same preliminary objection has also been taken in MA 839/2002.

5. During the course of arguments, the applicant has brought to our notice the fact that against the aforesaid impugned suspension order passed, admittedly by an officer from the office of the KVS at Dehradun under whose jurisdiction he was then working, he had filed an appeal to Respondent No. 4 i.e. the Commissioner of KVS, at New Delhi. However, having regard to the facts and circumstances of the case, the judgement of the Delhi High Court in **R.S. Yadaav's** case (supra) read with the provisions of Section 25 of the Administrative Tribunals Act, read with Rule 6(1) of the CAT (Procedure) Rules, 1987, we are of the considered view that the Principal Bench of the Tribunal does not have jurisdiction in the matter as the cause of action has arisen in Dehradun in the State of Uttranchal. In this view of the matter, we are not expressing any views on the merits of the case. We are fortified in the view we have taken by the judgement of the Hon'ble Supreme Court in **Most. Rev. P.M.A. Metropolitan & Ors. Vs. Moran Mar Marthoma** (JT 1995 (5) SC P-1), wherein it has been held by the Hon'ble Supreme Court that the plea as to maintainability of suit for lack of jurisdiction by the applicant held not precluded. It has also been held by the Hon'ble Apex Court that the bar of lack of jurisdiction can be entertained, at any stage, since an order or decree passed

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without jurisdiction is non est in law. In the present case, the applicant is aggrieved by orders issued by an officer of KVC at Dehradun. It is also relevant to note that in the impugned suspension order, it has been clearly stated that the Headquarters of the applicant is at Banwasa, in the state of Uttranchal.


6. As mentioned above, the relevant facts and orders issued against the applicant in OA 2983/2001 are materially the same as in OA 2834/2001.

7. In the result, for the reasons given above, MA 840/2002 and MA 839/2002 are allowed, holding that this Bench of the Tribunal does not have territorial jurisdiction in the matter, having regard to the provisions of the Administrative Tribunals Act, read with the procedure rules made thereunder. Accordingly, OA 2834/2001 and OA 2983/2001 are disposed of as without jurisdiction, leaving it open to the applicants to pursue their remedies, as advised, before the appropriate forum.

8. In the facts and circumstances of the case, Registry is directed to retain one set of the pleadings for record purposes and return other papers to the applicants in the aforesaid O.As as expeditiously as possible.

9. Let a copy of this order be placed in 2983/2001.


(S.A.T. Rizvi)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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