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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 3115/2001
T.A.No.

Date of Decision 29.7.2002

K.P.Dubey TGT ... Petitioner

Present in person ... Advocate for the Petitioner(s)

VERSUS

Commissioner, Kendriya ... Respondent
Vidyalaya Sangathan and Ors.

Shri S.Rajappa ... Advocate for the Respondents

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K.Majotra, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench: New Delhi

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O.A. No.3115/2001

This the 29th day of July, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

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

-Applicant

(Applicant Present in person)

Versus

1. The Commissioner (Shri H.M.Cairae),
Kendriya Vidyalaya Sangathan (Hqrs.)
18, Institutional Area, Sahid Jeet Singh Marg,
New Delhi-110016.
2. The Asstt. Commissioner (Shri M.M. Swamy),
Kendriya Vidyalaya Sangathan,
Regional Office, Salawala,
Hathi Barkala, Dehradun.

-Respondents

(By Advocate: Shri S. Rajappa)

ORDER (Oral)

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

We have heard the applicant and Shri S.
Rajappa, learned counsel for respondents.

2. MA-849/2002 has been filed by the respondents in which they have prayed that the OA may be dismissed in view of the fact that the Principal Bench of the Tribunal does not have territorial jurisdiction in the matter. Reply to this MA has also been filed by the applicant and we have heard him as well as the learned counsel for respondents.

3. Learned counsel for respondents relies on

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an earlier order of this Tribunal dated 22.4.2002 in OA-2834/2001 with OA-2983/2001 in which one of us (Smt. Lakshmi Swaminathan) was also a member, (copy placed on record). He has also relied on a judgment of the Hon'ble High Court dated 4.12.2000 in Writ Petition No.7381/2000.

4. On the other hand, the applicant has submitted that this Bench of the Tribunal has jurisdiction in the matter. He has drawn our attention to the representation made by him dated 27.11.2000 to the Assistant Commissioner, KVS, Regional Office, Dehradun with regard to his pay which he submits is in furtherance of the Hon'ble High Court order dated 14.11.2000 (Annexure A-13). By this order, the Hon'ble High Court had dismissed CCP No. 383/99 stating that if the applicant had any further grievance on account of reconciliation of accounts etc., he may take appropriate remedy and the proceedings against respondents were dropped and the Rule discharged. He relies on Annexure A-6 letter dated 12.5.97 from K.V.S., New Delhi to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silcher regarding compliance of Court's order dated 13.3.97 in CWP No. 1595/91 filed by the applicant.

5. During the course of hearing, on a specific query made from the Bench on the verification given by the applicant to the OA, the applicant frankly submitted that he has given the c/o address of Shri

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P.K. Mishra, C-1/54, Railway Colony, Chhoti More Sarai, Delhi only for the purpose of verification of the OA so that he can file the same in the Principal Bench, New Delhi. He has also clarified that Shri P.K. Mishra is the father of his friend. He has also submitted that he is working as TGT (Maths) in Kendriya Vidyalaya No.2, NHPC, Banbasa, Uttaranchal, and, therefore, normally resides in that place and not in Delhi.

6. Rule-6 of the Central Administrative Tribunal (Procedure) Rules, 1987 reads as follows:-

"Place of filing applications- (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-

"(i) the applicant is posted for the time being, or

(ii) the cause of action, wholly or in part, has arisen".

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application".

Sub-Rule (2) of Rule-6 will not be applicable to the facts of this case because the applicant is admittedly continuing in service as TGT (Maths), Kendriya Vidyalaya, NHPC, Banbasa, Champawat,

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Uttaranchal, and has not retired from service.

7. The applicant's own admission in open court today that he is normally not a resident of Delhi and has only given the address of Shri P.K. Mishra, at Delhi for the purpose of verifying this OA so that he can file it here in the Principal Bench, is relevant. Therefore, having regard to the provisions of Rule-6 (1) of the aforesaid Rules, and the facts of this case, we agree with the submissions made by the learned counsel for respondents that this Bench of the Tribunal does not have jurisdiction to hear the matter. Similar reasoning has also been given in the order of the Tribunal in the aforesaid case in OA-2834/2001 with OA-2983/2001. We are also fortified by the judgment of the Hon'ble Delhi High Court in State of Gujarat Vs. R.S. Yadav and another in Writ Petition No.7381/2000 wherein the High Court allowed the petition and directed that the Tribunal should transfer the case to the Central Administrative Tribunal, Ahmedabad Bench from the Principal Bench.

8. In the facts and circumstances of the case and for the reasons given above, MA-849/2002 is 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, 1985 read with Rule-6 of the Central Administrative Tribunal (Procedure) Rules, 1987. Accordingly, the O.A. is disposed of

as without jurisdiction, leaving it open to the applicant to pursue his remedies as advised, before the appropriate forum.

9. In the facts and circumstances of the case, Registry is directed to retain one set of the pleadings for record purposes and return the other papers of the OA to the applicant. No order as to costs.

(V.K. Majotra)
Member (A)

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.