

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.858/2001

New Delhi this 23rd the day of August, 2002

HON'BLE MR.KULDIP SINGH, MEMBER (J)

1. Ms. Archana Vats, TGT (N.Sc.)
S.K.V., 'U' Block,
Mangolpuri,
D/o Shri H.K. Vats
R/o 266/2 Padam Nagar,
Kishanganj,
Delhi-110 007.
2. Veena Sharma, TGT (S.St.),
S.V. Coed, 'C' Block,
Sultan Puri,
D/o Shri T.N. Sharma
R/o Pocket A-2/166,
LIG Flats, Paschim Vihar,
Delhi.
3. Sweety Mann, PGT (History)
S.K.V. (Rampura)
W/o Sh. Satyander Mann,
R/o Village & P.O.
Nayabasti, Delhi.

Applicants

By Advocate: Shri S.K. Sinha.

Versus

1. Government 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.

..Respondents

By Advocate: Mrs. Avnish Ahlawat.

ORDER

This is a joint application filed by three applicants seeking the following reliefs:-

- (i) To direct the respondents to allow the applicants to join their duties and posts forthwith and declare any alleged termination as void ab initio.
- (ii) To direct the respondents to pay full salary for the period the applicants were wrongfully restrained from attending to their places of posting.
2. The facts as alleged by the applicants in brief are

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that the applicants were appointed as TGT/PGT in various schools run by the Delhi Administration in response to an open advertisement and after going through a process of selection on the basis of overall merit, but now the applicants have been restrained and have been verbally informed that their services were no longer required without any relieving/termination orders.

3. It is further stated that the termination was neither in conformity with the terms of their appointment nor they have been replaced according to the directions of the Hon'ble High Court of Delhi in CWP No.6363 of 1999 dated 20.12.1999. While terminating the services the applicants allege that the respondents have acted in a mala fide manner ~~remover~~ and they are pursuing the policy of favouritism and they have violated the policy framed by themselves. Besides that it is also submitted that the principle of 'last come first go' which is a well recognised principle by various judicial pronouncements, have also not been followed.

4. The applicants further allege that the termination of the services is also in violation of the terms of the appointment as no notices for one month period have been given or one month's salary in lieu thereof, therefore, the action of the respondents is violative of Articles 14, 16 and 21 of the Constitution of India.

5. The respondents are contesting the OA and the present OA is liable to be dismissed on the ground that the petitioners have not disclosed in this application the fact that the ~~xx~~ contract teachers had earlier also approached the Hon'ble High Court where the case has been decided vide judgment dated 20.12.1999 and the SLP against the said order had already been dismissed. Applicants had again filed an OA 499/2000 before the Central Adminn. Tribunal seeking a relief of continuation treating them a class and during the pendency of the petition, petitioners were disengaged and their OAs were dismissed on 27.10.2000.

6. It is further submitted that in case of all the three

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petitioners the regular teachers were posted on transfer basis in the schools as against the post of Archna Vats, Ms. Anju Diwedi, TGT (Natural Science) was appointed and she joined on 1.7.2000 so Archna Vats was relieved. Petitioner No.2 Veena Sharma was working to the post as TGT (Social Study) and was disengaged on 1.8.2000 when the regular teacher Ms. RamVati Sharma, TGT (Social Study) was appointed to the post, since no other post of TGT (Social Study) was lying vacant. Petitioner No.2 was also relieved on 1.8.2000. Similarly Rekha Bist, PGT (History) a regular teacher joined the school on 1.8.2000 (FN) and as such petitioner No.3 stood relieved automatically as there was no post of PGT (History) in the school. Thus all the three teachers have been replaced by the regular teachers so the present petition is totally misconceived.

7. The respondents also submitted that all the applicants were appointed on contract basis and as per the decision of the Hon'ble High Court the individuals holding the post on contract basis be not replaced by contractual-ad hoc teachers and as regards the principle of last come first go is concerned that is not available since they had been appointed for the posts which were not known as no posts of TGT (Natural Science), TGT (Social Science) and PGT (History) was lying vacant in the school, and all the three petitioners were disengaged w.e.f. 1.8.2001 and in any case no person junior to the petitioners is working as contract teacher in respective subject in any schools where petitioners were working so the action of the department was justified.

8. The respondents also submitted that this Tribunal had already dismissed the similar petition bearing OA No.933 of 2000 entitled as Ms. Anju Vs. Government of NCT of Delhi

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so the matter is fully covered and this OA should also be dismissed.

9. I have heard the learned counsel for the parties and gone through the record.

10. The main contentions of the applicants are that the High Court's order which has been relied upon by both the parties an observation has been made therein that the contract teachers were allowed to remain in the post till their vacancy is duly filledup in accordance with the rules. The counsel for the applicant submitted that as far filling up either vacancy is concerned the same can be done by fresh appointment or by promoting from their own cadre where the contract teacher was working but in this case no vacancy was filled by any of two modes of recruitment rather the regular teachers have been brought on transfer basis so the applicants could not have been disengaged. In my view this contention of the learned counsel for the applicants has no merits because the appointment in the Government schools is made through Service Selection Board run by the Government of Delhi and if teachers of a particular subject are available in any Government school and the vacancy for that subject is not available then the teachers can be transferred to another school also and in the present case since the respondents have specifically stated that the replacement in the case of all the three applicants have been made by regular teachers and the post in the said subject are not available now and no junior to the applicants have been retained so the applicants cannot have any grievance. If they have been replaced by a regularly appointed teachers whether by appointment, promotion or transfer, ~~so~~ So considering the overall vacancies available with the Govt. of NCT of Delhi the vacancies in the subjects to which the applicant belongs are not being available so these teachers

cannot be adjusted in any other vacancies.

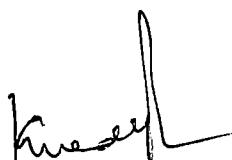
10. The counsel for the applicants has taken another point that no order of termination was passed and one month's salary was not given to the applicants. In this regard I may mention that this very Tribunal in an earlier OA 933/2000 in the case of Ms. Anju Vs. Govt. of NCT of Delhi and others the same point was considered and then this Tribunal relying upon a judgment reported in 2000 (6) SCALE page 85 entitled as Prabhudayal Bihari Vs. M.P. Rajya Nagrik Aapurti Nigam Ltd. observed as Under:-

" The order of termination of services of the appellant was made in contravention of the specific condition mentioned in the very appointment order, the trial court was right and justified in decreeing the suit of the appellant".

11. In view of the observation made earlier by this Tribunal I find that I am unable to take any different view than the said judgment and since the case is already covered so I find that these contentions have no merits.

12. No other contention has been raised before me.

13. In view of the above, OA has no merits and the same is dismissed. No costs.



(Kuldip Singh)
Member (J)

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