

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. No.363/2003

IN

R.A. No.133/2002

IN

O.A. No.2923/2001

New Delhi, this the ^{22nd} day of October, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Mrs. Abha Bhardwaj,
W/o Dr. R. Bhardwaj,
R/oA-2/25, Shri Agrasen Apartments,
Plot No.10, Sector-7, Dwarka,
New Delhi.
2. Smt. Madhu Sharma
W/o Shri R.K. Sharma
R/o M-38, New Mahavir Nagar,
New Delhi.
3. Smt. Kanta Vohra,
W/o Shri Devender Vohra,
R/o 109/B, Ramesh Nagar,
New Delhi
4. Smt. ~~Rajni~~ Sati,
W/o Shri G.S. Sati,
R/o B-169, Sector 22,
Noida.
5. Smt. Renu Saxena
W/o Shri A.K. Saxena,
R/oC-7/60, East of Kailash,
New Delhi-110065.
6. Ms. Tejinder Kaur,
D/o Sardar Narayan Singh,
R/o DA/99/C, Hari Nagar,
New Delhi.
7. Smt. Usha Rani Sharma
W/o Shri V.B. Sharma
R/o28, Plot No.B-5, Deluxe Apartment,
Vasuandhra Enclave, Delhi.
8. Bharat Bhushan,
S/o Late Sh. A.C. Lakhina,
r/o 99-B, Single Story,
Ramesh Nagar, New Delhi-110015.

....Petitioners

(By Advocate : Shri B.B. Raval)

Versus

Kendriaya Vidyalaya Sangathan, THROUGH

1. Shri H.M. Caire,
Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.

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2. Shri S. Modawal,
Assistant Commissioner,
Delhi Region.

.....Respondents

O R D E R

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER:

CP 363/2003 & MA 2208/2003

Eight Petitioners - Mrs. Abha Bhardwaj, Smt. Madhu Sharma, Smt. Kanta Vohra, Smt. Rajni Sati, Smt. Renu Saxena, Ms. Tajinder Kaur, Smt. Usha Rani Sharma and Shri Bharat Bhushan are alleged to have filed this Contempt Petition. However, only five of them appear to have signed the petition.

2. It is stated by the petitioners that they were applicants in Original Application No. 2923/2001 and Review Application NO. 133/2002. It is claimed that this Tribunal had dismissed the OA relying on the judgement passed in some other case. Therefore, the petitioners had filed Civil Writ Petition No. 1966/2002. The Hon'ble High Court had observed that the remedy of the petitioners was to approach the Tribunal by filing an appropriate application for review. Accordingly, RA 133/2002 was filed and on 19.7.2002, this Tribunal passed the following orders:-

"Having regard to the above submissions, I direct notices be issued to the Respondents to file their reply on RA 133/2002 within four weeks and thereafter two weeks to the applicants to file their rejoinder to RA 133/2002. List before the Joint Registrar for completion of pleadings on 11.9.2002.

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Issue a short notice also to the respondents to file their short reply on interim relief within ten days. List on 2nd August 2002.

In the meanwhile, the status quo as granted during the pendency of the OA aforesaid be maintained."

3. Aggrieved by that order, the respondents had filed CWP No.5652/2002 and the Hon'ble High Court on 11.9.2002 disposed of the said Writ Petition with the observation that the next date was fixed before the Tribunal on 20.9.2002, therefore, the petitioners in the Writ Petition could raise all those grievances before the Tribunal itself. The respondents - Kendriya Vidyalaya Sangathan had filed a miscellaneous application dated 9.10.2002 before this Tribunal for vacation of the order of status quo dated 19.7.2002.

4. The contention of the petitioners is that in view of the order of 'status quo' granted on 19.7.2002 passed in RA NO.133/2002, the present petitioners should have been allowed to join duty at the place from where they were transferred. The claim of the petitioners is that they are still ready to join duty but the respondents/contemnors have issued notice by invoking the provisions of Article 81 (d) of Education Code. In the present Contempt Petition, it is claimed that the respondents/contemnors have violated the orders of this Tribunal dated 19.7.2002. Therefore, they should be punished for contempt of this Court. The petitioners have also claimed for release of salary from 16.5.2002 and punishment to the

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respondents/contemnors for lowering the esteem and prestige of this Tribunal.

5. In MA 2208/2003, it has been stated that in spite of the 'status quo' order dated 19.7.2002, Kendriya Vidyalaya Sangathan has passed orders on 15.9.2003 treating the petitioners being on unauthorized absence. Therefore, it has been urged that the orders dated 15.9.2003 relating to the applicants - Shri Bharat Bhushan, Smt. Madhu Sharma, Smt. Kanta Vohra and Smt. Usha Rani Sharma be stayed by issue of an ex parte ad interim order. This miscellaneous application has again been filed on behalf of Mrs. Abha Bhardwaj and others by five signatories out of total eight petitioners in the Contempt Petition No.363/2003.

6. The learned counsel of the petitioners invited our attention to the order dated 10.10.2003 in the case of Shri Bharat Bhushan Lakhina vs. Commissioner, K.V.S. and Another (OA NO.2453/2003) wherein the applicant had sought quashing of the order dated 15.9.2003 purported to have been passed by the Assistant Commissioner, K.V.S. terminating the services of the applicant therein. While this Tribunal refused to entertain the said Original Application being pre-mature, it was directed that the applicant may take necessary steps, if so advised, in case there is disobedience of any directions of the Tribunal. The learned counsel, therefore, urged that

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this Petition is filed for taking action by this Tribunal against the respondents/contemnors for disobeying the orders of 'status quo' dated 19.7.2002 passed in RA No.133/2002. Therefore, the learned counsel of the petitioners has sought that the respondents should be punished in accordance with the provision of Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985.

7. We have heard the learned counsel of the petitioners and have perused the materials available on record.

8. It may be relevant to note that nine petitioners - Smt. Abha Bhardwaj, Smt. Madhu Sharma, Smt. Kanta Vohra, Smt. Rekha Pathak, Smt. Rajni Sati, Smt. Renu Saxena, Ms. Tajinder Kaur, Smt. Usha Rani Sharma and Shri Bharat Bhushan had filed another Contempt Petition bearing CP No.275/2003 in which almost similar prayers was made as follows:-

- "(i) to initiate contempt of court proceedings (civil) against the respondents for willful disobedience and violation of order, summon to the Bar of Bench and administer punishment so as to be exemplary for similarly situated erring officials.
- (ii) To direct the respondents to release the salary of the petitioners and for such act of kindness the petitioner shall ever pray as in duty bound.
- (iii) To call the respondents in person and initiate contempt proceedings against them for their willful disobedience of Hon'ble Tribunal's order dated 19th July 2002 passed in RA NO.133 in OA No.2923/2001.

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- (iv) Such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper may please be passed."

9. That Contempt Petition No.275/2003 was disposed of by an order dated 20.10.2003 wherein also the same plea of 'status quo' order dated 19.7.2002 in RA No.133/2002 was taken. It was also urged that respondents be restrained from proceeding with the action under Article 81 (d) of Education Code. After considering the facts of this case and after appreciation of the arguments and law on the issue, this Tribunal has held as follows:-

"31. Having regard to the aforesaid, on liberty by the High Court RA-133/2002 filed by applicants on 19.7.2002 status quo has been granted which has been in effect during the pendency of the OA and was directed to be maintained. However, in CWP-5652/2002 the aforesaid order was challenged before the High Court where the following observations have been made:

"The learned Tribunal should consider the desirability of hearing out the parties on the next date fixed and dispose of the matter on that date.

It goes without saying that the parties herein would be entitled to raise all contentions raised in the writ petition and in the counter affidavit herein.

We hope and trust that unless a final order is passed either on the review application or in the application for vacating interim order, if any, the learned Tribunal shall not proceed with the application of the unofficial respondents herein for enforcement of the order.

With the aforementioned observations and directions, this writ petition is disposed of".

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32. The Writ Petition challenging the RA, has already been made Rule DB.

33. If one has regard to the above, as the review has not been finally disposed of and the Tribunal is precluded from proceeding with an application of the unofficial respondents for enforcement of the order dated 17.9.2002 by way of contempt petition what has been prayed is enforcement of the aforesaid order, which cannot be gone into in the CP.

34. Moreover, in so far as show cause notices issued and orders passed under Article 81 (d) of KVS Code are concerned, as the same constitute a fresh cause or action this cannot be gone into in the present CP. The matter is contentious and complicated. Whether applicants have to be retained at Delhi or to join their transferred place and in absence of complying with the direction to face consequences in accordance with rules is to be determined in accordance with rules and instructions and law on the subject. It is also on record that even after the extended period of relieving they had not reported to the transferred place and have been paid the entire dues till that date their CMS for clarification have been withdrawn. We have not expressed our opinion on merits pertaining to Article 81 (d) of the KVS Code and the action taken by the respondents thereto."

10. In view of the above position in OA No.275/2003 dated 20.10.2003, the learned counsel was granted time to reconsider to pursue the present contempt petition No.363/2003. However, learned counsel has persisted in prosecuting this Contempt Petition also which apparently is covered by our decision in CP No.275/2003 given on 20.10.2003.

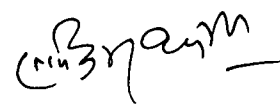
11. In view of the above, this CP No.363/2003 being merely a repetition of the earlier contempt petition is rejected. However, it is clarified that if the petitioners are aggrieved by an order passed by the respondents in terms of provision contained in


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Article 81 (d) of Education Code, that will be a fresh cause of action and the petitioners can prosecute their remedies in accordance with law, if so advised.

12. The Miscellaneous Application No.2208/2003 claiming stay of order dated 15.9.2003 is also merely an attempt to reagitate the same issue by filing several proceedings. The matter was agitated in CP No.275/2003 as well as in OA No.2453/2003 which was filed by one of the petitioners - Shri Bharat Bhushan. The petitioners are merely trying to abuse the process of law by claiming the same relief by filing different applications/petitions, which is not desirable.

13. In view of what is stated earlier, this Contempt Petition is rejected and MA 2208/2003 also stands disposed of.


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER


(SHANKER RAJU)
JUDICIAL MEMBER

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