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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. NO.2326/1999

New Delhi this the 30 th day of May 2001.

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

1. Kendriya Vidyalaya Sangathan Staff Association  
Through its Joint Secretary,  
Shaheed Jeet Singh Marg, New Delhi.
2. Rashtriya Kendriya Vidyalaya Adhyapak Sangh  
Through its Secretary,  
Kendriya Vidyalaya No.1 Delhi Contonment  
Sadar Bazaar Road, New Delhi.
3. All India Kendriya Vidyalaya Association  
Through its Secretary,  
B-IX/1, AAI Residential Complex  
Mahipalpur, New Delhi.
4. Mr. M.N. Haider  
S/o Waheed Haider  
K.V.S. Staff Quarter,  
Type-2/17, Sector -33,  
Noida (U.P.).

.... Applicants.

(By Advocate : Ms. Maninder Acharya)

Versus

Kendriya Vidyalaya Sangathan (through its  
Chairman), New Delhi  
Shaheed Jeet Singh Marg, New Delhi.

.....Respondents

(By Advocate: Shri S. Rajappa)

O R D E R

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

This application has been filed by three Associations in the Kendriya Vidyalaya Sangathan (hereinafter referred to as "KVS") as applicants 1-3 and applicant No. 4 is Shri M.N. Haider, who is a Member of the KVS Staff Association/Applicant No.1.

2. The applicants have stated that they are aggrieved by the amendments carried out by the respondents in the existing clause 5(e) of the Kendriya Vidyalaya Sangathan (Recognition of Service Association) Regulations, 1995 (hereinafter referred to as 'the Regulations') by the Board of Governors in its meeting held on 23.9.1999. According to the

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learned counsel for the applicants, these amendments have been arbitrarily brought in by the Board of Governors to disallow an employee under suspension to be a member or office bearer of the Association which, according to her, is illegal and arbitrary. Ms. M. Acharya, learned counsel has submitted that the effect of this amendment is against the interests of the employees as well as the Associations. She has very vehemently submitted that the suspended employee continues to be an employee for all purposes and is entitled to subsistence allowances and promotions, although the result of the promotion is required to be kept in a sealed cover but her point is he continues to be in Government service. She has, therefore, submitted that the amendments carried out by the respondents are with mala fide intention to keep applicant No.4 out of the Association activities as he has already been suspended by an illegal order and he is the general secretary of applicant No.1 Association. Learned counsel has submitted that the respondents vide letter dated 25.8.1994 had invited applicant No.4 to participate in the 10th meeting of the Staff Council. However, he was not allowed to participate in the meeting, on the ground that he had been suspended vide order dated 30.8.1999. She has very vehemently submitted that by making the amendments strong people are kept out of the Association which is mala fide. The applicants have also challenged the amendment carried out in Paragraph 5 of the Joint Consultative Machinery (JCM) Scheme, as circulated by KVS on 23.9.1985 which also provides that suspended employees of KVS cannot be members of the staff side of the JCM. Learned counsel for the applicants has submitted that the action of the respondents in not permitting applicant No.4 to attend the Council Meeting on 14.9.1999, on the ground that he had been suspended on 30.8.1999, is illegal and arbitrary and she has very vehemently submitted that mala fides is writ

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large on the face of the impugned amendments. According to her, the real intention of the respondents to amend the Rules is to keep applicant No.4 out of the JCM or allow him to hold office in the service Association. She has submitted that the employees have a right under Article 19(1)(c) of the Constitution to form associations which has been sought to be arbitrarily interfered with by the respondents by amending the Regulations. She has relied on the judgement of the Supreme Court in O.P.Gupta Vs.Union of India (AIR 1987 SC 2257).

3. In the brief facts of the case, the applicants have stated that applicant No.1 is a society registered under the Societies Registration Act, 1860, and it is represented through its Joint Secretary Mr. B.K. Bose but neither in the Memo. of parties nor in the amended Memo. of parties, his name has been shown. She has also submitted that the general secretaries of applicants 2 and 3 Associations have also been authorised and have signed on behalf of these Associations and applicant No.4 is the general secretary of applicant No.1 Association.

4. During the hearing, it was noticed that the applicants have not complied with the provisions of Rule 7 of the Central Administrative Tribunal Rules of Practice, 1993 notified under Section 22 of the Administrative Tribunals Act, 1985. At this stage, Ms. Acharya, learned counsel for the applicants, sought more time to amend the Memo of Parties. This O.A. has been filed on 15.10.1999 and we note that she has also filed another Memo. of Parties on 1.2.2000. Therefore. we proceeded to hear the case.

5. The respondents in their reply have controverted the above facts and submissions made by the applicants and their counsel. They have relied on the Memorandum of the Association of KVS, copy placed on record, which is a society registered under the Societies Registration Act, 1990. Shri

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S. Rajappa, learned counsel has submitted that from the Memorandum of Association and the Rules of KVS, they have all the powers to regulate its functions for attaining the objects as contained in the Memorandum and Articles of Association, including recognition of Service Associations as contained in the Regulations. Shri Rajappa, learned counsel has submitted that forming an association and recognition to be given to the same is distinct and different from conditions of service of an employee of the Sangathan. He has submitted that in the circumstances, the O.A. is not maintainable as the issues raised in this O.A. do not fall under the provisions of Section 3(q) of the Administrative Tribunals Act, 1985 as it is not a "Service Matter" within the jurisdiction of the Tribunal.

6. Learned counsel for the respondents has also submitted that the applicants have not made out any prima facie case against the amendments carried out in the aforesaid Regulations and Scheme of KVS which relate to regulation and recognition, etc. of service Associations. He has also pointed out that applicant No. 4 has nowhere challenged the vires of the suspension order passed against him dated 30.8.1999. He has also submitted that proper and necessary parties have not been impleaded in the O.A. On merits, he has submitted that the amendments carried out by KVS cannot also be held as bad in law. This merely deprives a suspended employee from participating in the Association meetings and other activities, which is a policy decision taken by the Board of Governors in its meeting held on 16.9.1999, when they approved the aforesaid amendments. He has submitted that the arguments of the learned counsel for the applicants are primarily based on the fact that applicant No. 4 has been suspended by the respondents, which according to him, is based on valid grounds. This itself has not been challenged but in

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that garb it is made out as if the Associations in question, have impugned the amendments. He has submitted that the Board of Governors of KVS have taken a decision to introduce the amendments in the Regulations and Scheme because of the growing gross indiscipline among some employees. In the circumstances, learned counsel has prayed that the O.A. may be dismissed.

7. We have also seen the rejoinder filed by the applicants in which they have more or less reiterated their averments in the O.A. namely, that the impugned amendments in the Regulations and Scheme have been brought about by the respondents with the sole mala fide intention to keep applicant No.4 out, which also affects the Fundamental and basic right of employees to form associations.

8. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

9. During the hearing, when it was pointed out that the amended Memo of Parties filed by the applicants is not in accordance with Rule 7 of the Central Administrative Tribunal Rules of Practice, 1993 read with the Administrative Tribunals Act, 1985, the applicants' counsel had sought more time. In the facts and circumstances of the case and for the reasons given below, this plea is rejected as it is not considered reasonable or necessary. Besides, we note that after filing the O.A. in October, 1999, they have already filed an amended Memo of Parties on 1.2.2000.

10. We find merit in the preliminary objection taken by the respondents that the issues raised in this application do not fall within the definition under Section 3 (q) of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act'). Under Section 19 of the Act, a person aggrieved by an order which is within the jurisdiction of the Tribunal may make an application to the Tribunal for redressal of his

grievance. Section 14 lays down the jurisdiction, powers and authority of the Central Administrative Tribunal to exercise, inter alia, all the jurisdiction, powers and authority exercisable by all Courts except the Supreme Court, in relation to recruitment and matters concerning recruitment, to any All India Service or a civil post under the Union or to a post connected with Defence or in the Defence services and pertaining to the service of such member, person or civilian in connection with the affairs of the Union or of any State or of any other authority under the control of the Government of India or of any Corporation owned or controlled by the Government. Section 3 (q) defines "service matters", in relation to a person, as meaning all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any Corporation owned or controlled by the Government.

11. In the Tribunal's order dated 14.2.2000 after quoting the aforesaid provisions of the Act, a prima facie view had already been expressed that the disputes raised in the present O.A. will squarely fall outside the definition of "service matters" in Section 3(q). It was also stated that the amendments impugned

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in the present application do not fall within the definition of "service matters" and hence, this will not be a matter falling within the jurisdiction of the Tribunal. It was further noted that in the relief clauses, no prayer has been made for asserting the right of applicant No. 4 to attend the meetings of the JCM and all that is impugned are the amendments. In the circumstances of the case, the prayer of the applicants for grant of interim orders, namely, to prevent the respondents from enforcing the aforesaid amendments in the Regulations and thereby to enforce the claim of applicant No.4 to participate in the JCM was rejected and the earlier interim order dated 5.11.1999 was vacated.

12. Looking at the nature of the impugned amendments in the Regulations and Scheme, we are also unable to agree with the contentions of the learned counsel for applicants that it is a curtailment of the Fundamental rights of the applicants, as reasonable restrictions can be imposed. Besides, it is relevant to note that the suspension order passed against applicant No.4 has itself not been impugned in this case but only the policy decision taken by the respondents with particular reference to him. Those amendments cannot also be held to be illegal or arbitrary or have the other claims in this proceeding been properly assailed before the Tribunal. Therefore, we reiterate our earlier views expressed in interim order dated 14.2.2000.

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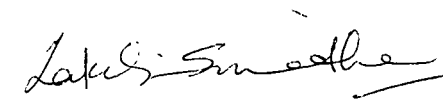
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13. Having regard to the provisions of Section 3(q) read with Section 14 of the Act, we find that the issues raised in the present O.A. do not fall within the definition of "service matters" and, therefore, within the jurisdiction of this Tribunal. In the facts and circumstances of the case, the vehement contention of learned counsel for the applicants that the right ~~of an employee to participate~~ in a Service Association which has been curtailed with respect to a suspended employee in the instant case and, therefore, it comes within the ambit of "service matters" cannot be accepted and is accordingly rejected.

14. In view of what has been stated above, we do not consider it necessary to deal with the merits of the case. The O.A. accordingly fails and is dismissed on the ground of lack of jurisdiction. No order as to costs.

  
(Govindan S. Tampi)  
Member (A)

"SRD"

  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)