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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2425/1999

New Delhi this the 12th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Smt. Neelam Mishra
W/o Brig. (Retd.) Dr. B. D. Mishra
R/o 414, Sector 37
Arun Vihar
Noida (U.P.)-201 303.

... Applicant

(By Shri R.V. Sinha, Advocate
with Shri R.N. Singh, Advocate)

vs.

1. Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110016.
(Through its Commissioner)

2. Smt. Lizzie Zacob
Ex-Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110016.
(To be served through respondent No. 1)

3. Smt. Nirmala Gopal, Principal
Kendriya Vidyalaya
Sector-II, R.K. Puram
New Delhi-110 022.

... Respondents

(By Shri L.R. Khatana, Advocate)

O R D E R (ORAL)

Shri Govindan S. Tampi:-

The challenge in this OA is directed against the orders dated 20.4.1998 and 5.5.1998 under which the applicant's regularisation as Post Graduate Teacher (PGT) in Biology has been cancelled and that of 24.6.1999 by which benefit of arrears of pay and allowances have been denied to her.

2. Heard the learned counsel for the applicant and the respondents. Reiterating the pleas which have been indicated in the OA, Shri R.V.Sinha, learned counsel for the applicant, indicates that in this case where the applicant an individual with high academic qualifications, originally joined the respondent organisation- Kendriya Vidyalaya Sangathan as a part time PGT in Biology in Kendriya Vidyalaya in R.K.Puram, New Delhi. She was performing duties almost as a whole time teacher and was also given the charge as a class teacher. Following a decision of the Central Administrative Tribunal in Guwahati, the respondents formulated a scheme for regularising the part time teachers. In pursuance thereof an interview was fixed to which the applicant was also called on 28.10.1993 but she ~~had~~ continued as part time PGT. Though she filed a petition before the Delhi High Court ~~but~~ ^{she} did not pursue it. Subsequently on the indulgence of the Chairman, Kendriya Vidyalaya Sangathan, she was appointed as a regular teacher on 26.12.1995 but w.e.f. 28.10.1993. This was done in pursuance of an interview in which she had participated in October 1993. She resigned from the service on 9.3.1998. Subsequently on 20.4.1998, an order had been served on her, indicating that her regulatisation as PGT was done erroneously and she was, therefore, not entitled to the said post of PGT. A reference is made to the letter dated 11.3.1998 by which she had been directed to submit representation, if any, against the cancellation of her

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regularisation. The contention raised by Shri Sinha is that this letter was not received by the applicant at all. By two other orders, she was directed to be relieved and her request for arrears of pay and allowances was rejected. The plea raised by Shri Sinha, the learned counsel is that the entire action of the respondents was arbitrary, hostile and discriminatory and deserved to be set aside, in the interest of justice.

3. Contesting the pleas raised by the applicant, Shri L.R.Khatana, the learned proxy counsel for the respondents placed before us the records leading to the issue of the Memorandum F.No.41-9/93-KVS (Estt.III) dated 11.3.1998 issued by the respondent No.2 i.e. Commissioner of Kendriya Vidyalaya Sangathan, describing as to how the order dated 26.12.1995 was wrongly issued and proposing its revocation. The said letter was also issued under registered post on the same day as the receipt obtained from the postal authorities would show. ~~that~~ ^{the} applicant was in fact put on notice about the respondents' action but had not cared to reply. Impugned order dated 24.6.1999 was, therefore, issued. As the applicant had obtained regularisation of appointment through other considerations and wrongfully, the same had to be set aside. There was no case for interference by the Tribunal in the matter, pleads Shri Khatana.

4. We have carefully deliberated upon the contentions raised in the OA, and those raised during the hearing before us today. We observe that her appointment as part time Post Graduate Teacher was regularised on 26.12.1995 but w.e.f. 28.10.1993 on the basis of an interview in which she was permitted to appear though she was not eligible to be considered merely on account of repeated outside influence brought to bear upon the organisation from time to time. In this context, paragraphs 5 to 9 of the respondents' letter dated 11.3.1998 are relevant:-

"5. When your request dated 23.8.93 for regularisation was considered it was observed that you did not fulfil the prescribed criteria mentioned in paragraph (3) above to be called for interview. Your weighted score/index mark being less than the minimum fixed for 93-94. However, you were given a chance to appear before the Selection Board on 28.10.93.

"6. In the list of candidates, including yourself from the general category prepared by the Kendriya Vidyalaya Sangathan in the receding order of merit based on the overall merit grade stated in paragraph 3 above your position was 180. 142 candidates were to be given offer of appointment out of that list. You could not be offered appointment as Post Graduate Teacher (Biology) on regular basis since your position was 180 in the list.

"7. Consequent on the directions of the then Hon'ble Minister of Human Resource Development and Chairman, Kendriya Vidyalaya Sangathan your application dated 1.3.94 to him for regularisation was again considered in accordance with law and found to be not feasible.

"8. On receipt of your representation dated 4.12.95 addressed to the Chairman, Kendriya Vidyalaya Sangathan the then Joint Commissioner (Administration) reviewed your case and ignoring material in paragraphs (2) to (7) hereto issued order No.F.1-4/92-KVS (RP II)/PF dated 26.12.95 purporting to regularise your services as Post Graduate Teacher (Biology) from 28.10.93 and giving you all consequential benefits as set out therein

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ostensibly under orders of the Minister of Human Resources Development & Chairman, Kendriya Vidyalaya Sangathan for immediate regularisation of your service though, in fact, no such orders of the Chairman, Kendriya Vidyalaya Sangathan existed.

"9. The said order dated 26.12.95 was also discriminatory as all candidates for the post of Post Graduate Teacher (Biology) were evaluated on the basis of criteria prescribed by the KVS (weighted score/index marks secured in the oral interview). You alone were singled out for different treatment, and in breach of the prescribed criteria, appointed solely on the basis of marks awarded in the oral interview. Further, though you were at 180th position yet the said order dated 26.12.95 was issued ignoring the claims and merits of the candidates above you in the list which affected and/or otherwise deprived meritorious candidates of their rights."

This letter which has been ~~posted~~ issued to the applicant on the very day i.e. 11.3.1998, as proved by the Postal receipt of registration clearly states that her placement in the list of candidates was at 180 and only 142 could have been given the appointment. It is ~~this~~ clearly a case where a person not eligible was considered and orders for regularisation were issued. This grave mistake rightly deserved to be rectified. There is nothing on record to show that the applicant has even represented against the ~~same~~ ^{proposal for revocation of the order} though opportunity was given. The plea that the aforesaid letter has not been received by the applicant cannot be accepted in view of the fact that the respondents have produced before us the receipt from the Postal authorities on the same day i.e. 11.3.1998. Further orders issued by the respondents dated 20.4.1998 cancelling the regularisation, ^{and 21.5.98} ~~and 21.5.98~~ relieving her on 5.5.1998 cannot be assailed. Memorandum dated 2

24.6.1999, disallowing the benefit of pay and allowances follows suit.

5. In the circumstances, the OA having absolutely no merit fails and is dismissed. No costs.

G. S. Tampi
(Govindan S. Tampi)

Member (A)

/sns/

A. Agarwal
(Ashok Agarwal)

Chairman