

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(10)

O.A. NO. 290 of 1999

New Delhi, dated this the 7 December, 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri P.C. Mittal,
Post Graduate Teacher (Retd.),
H-12, Ashok Vihar,
Delhi-110052.

... Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Union of India through
the Secretary,
Dept. of Education,
Ministry of Human Resources & Development,
Shastri Bhawan,
New Delhi-110001.

2. Govt. of NCT of Delhi,
through its Chief Secretary,
5, Sham Nath Marg, Delhi.

3. Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi.

... Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the supplementary/
additional inquiry report submitted by the E.O. on the
alleged direction and dictat of Dy. Director, Education,
Govt. of NCT of Delhi letter dated 28.7.94 and seeks
a declaration that the disciplinary proceedings kept
pending against him are illegal. He seeks direction
to respondents to release all terminal benefits along
with interest @ 24% p.a. within a specified period.

2. Admittedly applicant who was a confirmed
Postgraduate Teacher under Directorate of Education,
Delhi Administration was selected for a foreign

assignment as Education Officer in Nigeria and was relieved vide order dated 9.4.71 (Annexure A-1) w.e.f. 12.4.71. According to respondents, the foreign assignment was for a period two years extendable to three years. According to them, applicant continued on deputation after the first contract, and got renewed the subsequent contract offered by the Nigerian Government, without the approval of the Head of the Dept. and the competent authority i.e. President of India. Applicant, however, contends that the order dated 12.4.71 did not indicate any period and only provided that the terms and conditions of deputation would be prescribed in consultation with Government of India which terms and conditions were never prescribed.

3. Admittedly applicant rejoined his duty in Directorate of Education on 11.1.85.

4. A Departmental Proceeding was initiated against applicant on the charge that he remained unauthorisedly abroad without the approval of the competent authority. The E.O. in his initial report dated July, 1994 (Page 47A-47C) held that the charge against applicant had not been established in the absence of adequate proof, but subsequently in view of the contents of the letter dated 28.7.94 of the Deputy Director of Education submitted a further report (copy at Page 48D) holding that applicant had overstayed without the approval of the Indian Government and continued to work under a foreign Government which was unbecoming of an Indian citizen.

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5. Meanwhile applicant retired from service on superannuation on 31.8.94. Respondents have released him only his provisional pension and plead inability to release his final retirement benefits owing to the pending of the D.E. against him.

6. We have heard applicant's counsel Shri M.K. Gupta and respondents' counsel Shri Vijay Pandita.

7. Shri Gupta has pleaded that the subsequent inquiry report holding applicant guilty of the misconduct submitted by the E.O. in view of the contents of the Dy. Director, Education's letter dated 28.7.94 be quashed as it is illegal and violative of rules. He has also challenged the D.E. on grounds of delay and in this connection reliance is placed by him on the Hon'ble Supreme Court's ruling in 1998 (4) SCC 154.

8. We have considered these contentions carefully. We note that Section 19 A.T. Act permits a person to approach the Tribunal if he is aggrieved ^{order} by any ~~other~~. In the present case there is no order with which applicant can be said to be aggrieved. Furthermore, we note that by letter dated 30.8.99 (copy taken on record) the Joint Secretary (Vig.), Government of NCT, of Delhi has forwarded the entire case to the Director, UT, Ministry of Human Resources & Development, for passing final orders under Rule 9 CCS (Pension) Rules. The Hon'ble Supreme Court has severely deprecated the practice of Courts/Tribunals interdicting departmental proceedings at interlocutory stages and now at this stage, when the papers have been forwarded to the Ministry of Human Resources & Development Government of India for passing final orders under Rule 9 CCS (Pension) Rules, we hold we would not be justified in passing any interlocutory orders.

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9. Instead we dispose of this O.A. with a direction to respondents to take a final decision in the matter in accordance with rules and instructions as expeditiously as possible and preferably within two months from the date of receipt of a copy of the order. While doing so they will examine in particular the legality of the further report, submitted by the E.O. in the light of rules, instructions and judicial pronouncements on the subject.

10. The O.A. is disposed of in terms of Paragraph 9 above. No costs.

Kuldeep Singh
(Kuldeep Singh)

Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

/GK/