

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 14th December, 2000

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

O.A. No. 445 of 1999

Shri Amar Singh,
S/o late Shri Jhanda Ram,
R/o B-15, Siddarth Nagar,
P.O. Jangpura,
New Delhi-110014.

.. Applicant

(By Advocate: Shri S.S. Tiwari)

Versus

1. Union of India through
the Secretary,
M/o Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
2. Central Board for Workers Education
through its Director,
North Ambazari Road,
Nagpur-440010.
3. Chairman,
Central Board for Workers Education,
North Ambazari Road,
Nagpur-440010.

.. Respondents

(By Advocate: Shri V.S.R. Krishna)

O.A. No. 1528 of 1998

Shri Amar Singh,
S/o late Shri Jhanda Ram,
R/o B-15, Siddarth Nagar,
P.O. Jangpura,
New Delhi-110014.

.. Applicant

(By Advocate: Shri S.S. Tiwari)

Versus

1. Govt. of NCT of Delhi
through the Chief Secretary,
Government of NCT of Delhi,
Dr. S.P. Mukherjee Marg,
Delhi.
2. Directorate of Education,
Delhi Administration,
Old Secretariat,
Delhi.

3. The Dy. Director of Education,
Dist. South,
Defence Colony,
New Delhi.

.. Respondents

(By Advocate: Ms. Jasmine Ahmed)

ORDER

MR. S.R. ADIGE, VC (A)

Both these O.As involve common questions of law and fact and are being disposed of by this common order.

2. Applicant who was a temporary Librarian in Government Boys Sr. Secondary School (GBSSS), Molarband, Badarpur, New Delhi submitted letter addressed to the Dy. Director, Education, South District, Delhi (Annexure B of O.A. No. 1525/98) seeking acceptance of his "technical resignation on lien basis" from the post of Librarian w.e.f. 6.1.96 as he had been selected for the post of Education Officer in Central Board of Workers Education. This letter appears to have been submitted on/about 15.12.95.

3. By Dy. Director, Education's Memo dated 4.1.96 (Annexure C of O.A. No. 1528/98) applicant's resignation was accepted, and he was relieved w.e.f. 6.1.96.

4. Applicant joined C.B.W.E., and upon successful completion of training from 8.1.96 to 7.6.96, he was appointed provisionally to the post of

Education Officer in a temporary capacity vide order dated 7.6.96 and was posted at Dhanbad (Page 11 of O.A. No. 445/99).

19

5. On 29.5.97 applicant submitted his resignation from the post of Education Officer, C.B.W.E. w.e.f. 30.6.97 stating that he wanted to revert back to his parent Dept. i.e. Directorate of Education, Delhi Administration (Page 14 of O.A. No. 445/99).

6. Applicant's resignation was accepted and he was relieved w.e.f. 15.7.97 vide C.B.W.E. order dated 15.7.97 (Annexure A of O.A. No. 445/99) to enable him to join his parent Dept. i.e. Directorate of Education, Delhi Administration.

7. However, Directorate of Education, Delhi Administration has rejected applicant's request to be allowed to join that office vide their letter dated 19.11.97 (Annexure A to O.A. No. 1528/98) giving rise to O.A. No. 1528/99.

8. Similarly C.B.W.E. has rejected applicant's representation dated 10/27.2.98 to be allowed to rejoin their organisation in the background of Rule 26 (4) (iii) of Pension Rules that after accepting his resignation from the post of Education Officer and his being relieved on 15.7.97, more than 90 days had elapsed. This was

2

communicated to applicant vide respondents' letter dated 6.3.98 (Annexure A of O.A. No. 445/99) giving rise to that O.A.

20

9. We have heard both sides.

10. Applicant does not deny that he was holding ^{the post} of Librarian only on temporary basis. The question of applicant holding lien on the post of Librarian might have arisen if the post had been a permanent post and he had been holding it on a substantive capacity, but as he was holding it on a temporary basis, he had no lien on that post. Shri Tiwari, has submitted that applicant's resignation from the post of Librarian was only a technical resignation with lien on the post of Librarian, and if he did not have any lien on that post, the Directorate of Education authorities should have informed him accordingly. It has also been contended that the Dy. Director of Education was not competent to accept applicant's resignation, he having been appointed by the Director of Education himself.

11. None of these contentions have merit.

12. Applicant cannot deny that he was aware that he was holding the post of Librarian only on temporary basis, and he cannot plead ignorance of the rules that a temporary Government servant does not hold lien on a post. He has, therefore, no enforceable legal right to compel the Directorate of

~

Education, Delhi Administration to take him back in service, merely because they, in their order dated 6.1.96, did not specifically state that applicant's resignation was not a technical resignation, and he had no lien on the post of Librarian. (2)

13. Applicant has also not shown us any materials to establish that he was appointed by the Director of Education and that the Dy. Director was not competent to issue order dated 4.1.96 accepting his resignation. In this connection, if indeed the Dy. Director of Education was not competent to issue the aforesaid order dated 4.1.96, applicant has not explained why he addressed his resignation letter to the Dy. Director of Education and not to the Director of Education.

14. In the light of the above, O.A. No. 1528/98 warrants no interference, and the rulings cited by Shri Tiwari namely SLJ 1978 Page 467 DESU Vs. Tara Chand; SLJ 1988 (2) 645; Sheo Nath Singh case; and 1999 (6) SCC 459; M.S. Shekawat Vs. U.O.I. do not advance applicant's claim.

15. Similarly no infirmity can be detected in C.B.W.E. order dated 6.3.98 which warrants judicial interference in *OA No 445/99*.

2

22

16. However, as vacancies of Librarian are still stated by applicant's counsel to be available, nothing contained in this order will preclude respondents from themselves considering reengaging applicant as Librarian if they are so disposed to do in accordance with the relevant rules and instructions.

17. Subject to what has been stated in Para 8 above, both O.A.s are dismissed. No costs.

18. Let a copy of this order be placed in both O.A case records.

(Dr. A. Vedavalli),
Member (J)

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

gk

True Copy
Allowed

Osborne

c.