(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

New Delhi, this the 25th September, 1998.

1) O.A. 370/98
2) O.A. 2202/97
3) O.A. 2012/97
4) O.A. 2010/97
5) O.A. 2037/97
6) O.A. 2076/97
7) O.A. 184/98
8) O.A. 311/98
9) O.A. 276/98
10) O.A. 277/98
11) O.A. 279/98
12) O.A. 258/98
13) O.A. 312/98
14) O.A. 2009/97
15) O.A. 2057/97
16) O.A. 2042/97
17) O.A. 278/98
18) O.A. 244/98
19) O.A. 344/98
20) O.A. 281/98
21) O.A. 275/98
22) O.A. 2040/97
23) O.A. 252/98

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

1) O.A. 370/98

Raj Kumar S/O Jai Chand Jha,
R/O Block-A, Pocket-B,
61, Shalimar Bagh,
New Delhi.

... Applicant

Versus

1. National Capital Territory
of Delhi through its Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (S-II Branch),
District North, Education Board,
Delhi.

3. The Principal,
Govt. Girls Secondary School,
R-Block, Mangolpuri,
New Delhi.

... Respondents

2) O.A. 2202/97

Krishna Chander S/O Udai Bhan,
R/O Libaspur, Jivan Park,
Gali No.2, House No. 44,
Delhi.

... Applicant

Versus

1. National Capital Territory
of Delhi through the Secretary,
5, Shamnath Marg,
New Delhi.

2. The Dy. Director of Education (A),
Directorate of Education (S II Branch),
North-West Hakikat Nagar,
Delhi.

3. The Principal,
Govt. Girls Secondary School,
Sector-I, Avantika,
Rohini, Delhi-85. ... Respondents

3) O.A. 2012/97

Upender Singh S/O Bindeshwari Singh
R/O RZ-215/B, Raj Nagar-I,
Palam Colony,
New Delhi-45. ... Applicant

Versus

1. National Capital Territory
of Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Joint Director of Education (A),
Directorate of Education (S II Branch),
Delhi.

3. The Principal,
Govt. Co-Ed. Secondary School
(At present Sarvodaya Vidyalaya),
O-Block, Mangolpuri, Delhi. ... Respondents

4) O.A. 2010/97

Hemant Kumar S/O Atma Prasad,
R/O B-226, Mukund Pur, Extn.,
Delhi-45. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Joint Director of Education (A),
(S II Branch), Dir. of Education,
Delhi.

3. The Principal,
Govt. Girls Secondary School,
Khajoori Khas, Delhi-94. ... Respondents

5) O.A. 2037/97

Ramji Singh S/O Bhikhari Singh,
R/O RZ-215/B, Raj Nagar-I,
Palam Colony, Gali No.10,
New Delhi-45. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Joint Director of Education (A),
Directorate of Education (SII Branch),
Delhi.

3. The Principal,
Govt. Girls Sr. Secondary School,
Mangolpur Kalan,
Delhi. ... Respondents

6) O.A. 2076/97

Janardan Singh S/O Lt. Shri Atal Bihari Singh,
R/O B-96, Mukund Pur,
P.O. Samai Pur Badli,
New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, New Delhi.

2. The Joint Director of Education (A),
Directorate of Educaton (SIE Branch),
Delhi.

3. The Principal,
Govt. Com-Model Secondary School,
(At present Sarvodaya Vidyalaya),
O-Block, Mangolpuri,
Delhi. ... Respondents

7) O.A. 184/98

Dharmender Singh S/O Sukhdev Singh,
R/O A-217, Haider Pur Village,
Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, New Delhi.

2. The Director of Education (A),
Directorate of Education (SII Branch),
North-West Hakikat Nagar,
Delhi.

3. The Principal,
Govt. Com-Model Co-Ed Sec. School,
BC-Block, Sultanpuri,
Delhi. ... Respondents

8) O.A. 311/98

Anil Kumar S/O Kanhaiya Lal
R/O C-1222, Jahangirpuri,
Delhi-33. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North, Education Board,
Delhi.

3. The Vice Principal,
Govt. Boys Senior Secondary School,
H-Block, Sultanpuri,
Delhi-41. ... Respondents

9) O.A. 276/98

Rameshwar S/O Ram Parshad,
R/O Vill. Sakatpura, Distt. Alwar,
Tehsil Mundawar, Raj. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Dy. Director of Education,
Directorate of Education (S II Branch),
Distt. North East, B-Block,
Yamuna Vihar, Delhi.

3. The Principal,
G.B.S.S. Vijay Park,
Delhi. ... Respondents

10) O.A. 277/98

Nand Lal S/O Shivapujan,
R/O B/78 Indrapuri,
JJ Colony, New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Dy. Director of Education,
Directorate of Education (S II Branch),
Distt. North, Education Board,
Delhi.

3. The Principal,
Govt. Boys Secondary School,
R Block, Mangolpuri-II,
New Delhi. ... Respondents

11) O.A. 279/98

Gajender Singh S/O Mangat Singh,
R/O Vill. Suthari,
P.O. Surana, Distt. Ghaziabad. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North East, B Block,
Yamuna Vihar, Delhi.

3. The Vice Principal,
Sarvodaya Kanya Vidyalaya,
Gokulpuri, Delhi. ... Respondents

12) O.A. 258/98

Santosh Kumar Pandey S/O Jagdish Pandey,
R/O Type-II C-63, DESU Colony,
Near Maharani Bag, Kilokri,
New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North, Education Board,
Delhi.

3. The Principal,
G.B.S.S.S., BC Block,
Sultanpuri, Delhi. ... Respondents

13) O.A. 312/98

Vinod Kumar S/O
R/O H.No.C-56 Gali No.7,
Majlis Park, Azadpur,
New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (S II Branch),
Distt. North, Education Board,
Delhi.

3. The Principal,
Govt. Girls Secondary School,
R-Block, Mangolpuri,
New Delhi. ... Respondents

14) O.A. 2009/97

Sudhir Kumar S/O Shanker Singh,
R/O Shakerpur, 107 Village,
Delhi-34. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Jt. Director of Education (A),
Directorate of Education (SII Branch),
Delhi.

3. The Principal,
Govt. Boys Secondary School,
J.J. Colony, Wazirpur,
Delhi-52. ... Respondents

15) O.A. 2057/97

Hari Mohan S/O Pooran Singh,
R/O HZ/29, Sultanpuri,
Delhi-41. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Jt. Director of Education (A),
Directorate of Education (SII Branch),
Delhi.

3. The Principal,
Govt. Co-Ed. Middle School,
Sultanpuri Majra,
Delhi-41. ... Respondents

16) O.A. 2042/97

Bharat Singh S/O Ram Rajya Singh,
R/O RZ-215/B, Raj Nagar-I,
Palam Colony, Gali No. 10,
New Delhi-45. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Jt. Director of Education (A),
Directorate of Education (SII Branch),
Delhi.

3. The Principal,
Govt. Com. (Model) Girls Senior
Secondary School, Sultanpuri,
Delhi. ... Respondents

17) O.A. 278/98

Naresh Chand S/O Charan Singh,
R/O A/54, Azadpur, Delhi. ... Applicant.

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North-East, B-Block,
Yamuna Vihar, Delhi.

3. The Vice Principal,
Govt. Girls Secondary School,
Vijay Park, New Delhi. ... Respondents

18) O.A. 244/98

Rajan Singh S/O Dhiri Singh,
R/O H.No. 316, Y-Block,
Gali No.6, Adarsh Enclave,
Prem Nagar-II, Nangloi,
Delhi- 41. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5. Sham Nath Marg, Delhi.

2. Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North, Education Board,
Delhi.

3. The Vice Principal,
Govt. Comp. (Model) Girls School,
Gokulpuri, Delhi. ... Respondents

19) O.A. 344/98

Jai Bhagwan S/O Ganga Ram,
R/O Roshan Vihar, Phase-II,
House No. 80, Najafgarh,
New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North, Education Board,
Delhi.

3. The Principal,
Govt. Boys Secondary School,
R-Block, Mangolpur,
New Delhi. ... Respondents

20) O.A. 281/98

Pankaj Kumar Singh S/O Ram Babu,
R/O Sant Niwas, Chhatrapur Mandir,
New Delhi. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education (SII Branch),
Distt. North, Education Board,
Delhi.

3. The Principal,
G.Co.Ed.M.S., Shahbad Dairy,
Delhi. ... Respondents

21) O.A. 275/98

Ram Lagan S/O Darogi Chaurasia,
R/O Karna Vihar, Karari Extension,
Gali No.6, Nangloi, Delhi-41. ... Applicant

Versus

1. National Capital Territory of
Delhi through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Dy. Director of Education,
Directorate of Education, SII Branch,
Distt. North, Education Board,
Delhi.

3. The Principal,
Govt. Senior Seondary School,
Nithari, New Delhi. ... Respondents

22) O.A. 2040/97

Raj Bir Singh S/O Samai Singh,
C/O Dharam Beer Singh,
A-219, Keval Park, Azadpur,
Delhi-33. ... Applicant

Versus

1. National Capital Territory of Delhi,
through the Secretary,
5, Sham Nath Marg, Delhi.

2. The Jt. Director of Education (A),
Directorate of Education (SII Branch),
Delhi.

3. The Principal,
Govt. Boys Secondary School,
J.J. Colony, Wazirpur,
Delhi. ... Respondents

23) O.A. No.252/98

Karan Singh S/o Shri Hari Ram
R/o RZ- 215B, Raj Nagar-I
Palam Colony,
New Delhi-15. ... Applicant

vs.

1. National Capital Territory of Delhi
through the Secretary,
5, Sham Nath Marg,
New Delhi.

2. The Dy. Director of Education
Directorate of Education (SII Branch)
Distt. North, Education Board
Delhi.

3. Vice Principal
Govt. Girls Senior Secondary School
Mandoli, Delhi. ... Respondents.

Present:

Shri U.Srivastava, counsel fof the applicants in all the OAs.

Ms. Richa Kapoor for Smt. Avnish Ahlawat, counsel and Shri Vijay Pandita, counsel for respondents in OA No. 276/98.

ORDER

Shri Justice K. M. Agarwal :

In all these O.As., the applicants have made a prayer for directing the respondents to pay subsistence allowance with consequential benefits pending conclusion of criminal trial for offences under Sections 420, 468 and 471 read with Section 34 IPC on the basis of FIR No. 263/97.

2. It appears that on the basis of fake appointment letters, the applicants in all these cases were successful in getting employment with the respondents as Class IV employees. There was some complaint that the applicants had secured employment on the basis of bogus appointment letters, and on that basis FIR No. 263/97 was registered by P.S. Mangolpuri for offences under Sections 420, 468 and 471 read with Section 34 IPC against the applicants. Upon inquiry, the respondents also came to know that no appointment letters were issued in favour of the applicants by the competent authority and that on the basis of fake documents they were successful in obtaining employment with the respondents. Accordingly, their services were terminated and, therefore, they have filed the aforesaid Original Applications for the aforesaid reliefs.

3. The learned counsel for applicants submitted that in Ved Pal vs. National Capital Territory of Delhi (O.A. No. 300/97) decided on

...contd.

20.11.1997, this Bench made the following directions in the case of a similarly appointed employee of the respondents :

"4. Without going into the merits on the question of delay, we consider that this case can be disposed of by granting appropriate relief. The following directions are issued :-

(i) The respondents shall reinstate the applicant forthwith without any benefit of past service including arrears of payment.

(ii) Respondents are at liberty to enquiry into the allegation against the applicant after giving an opportunity to the applicant in accordance with law and thereafter on the basis of enquiry report, appropriate orders may be passed by the respondents.

It is made clear that the period between the date of discharge and date of reinstatement need not be considered to be as period spent on duty even if the applicant is exonerated in the departmental enquiry. With this view, the O.A. is disposed of."

4. It was further submitted that the aforesaid order has been challenged by the official respondents in the High Court by filing a Civil Writ Petition, which is pending. It was submitted that operation of order dated 20.11.1997 in OA No. 300/97 of the Tribunal was stayed by the Delhi High Court. Accordingly, it was submitted that these applications may also be disposed of accordingly and the respondents herein may file Writ Petitions and

...contd.

obtain stay of operation of such orders of the Tribunal.

5. The learned counsel for respondents submitted that in view of the decisions of the Supreme Court in Union of India vs. Ratipal Saroj, (1998) 2 SCC 574 and State of M.P. vs. Shyama Pardhi, (1996) 7 SCC 118, and one decision of the Tribunal in Sanjiv Kumar Aggarwal vs. Union of India, ATR 1987 (2) CAT 566, no such relief as was granted to the applicant in OA No. 300/97 by this Tribunal can be granted to the present applicants.

6. The aforesaid directions in OA No. 300/97 were made by the Tribunal on the ground that the applicant therein was discharged from service on certain serious allegations without holding any inquiry as contemplated under Article 311 (2) of the Constitution. It appears that the learned Members of the Division Bench constituting the Bench that passed the order in OA No. 300/97 did not notice the aforesaid two decisions of the Supreme Court and one earlier decision of this Tribunal, which would go to ~~say~~ that if employment is found to have been secured by fraud on ~~an~~ some such basis like the one of securing employment on the basis of fake appointment letter, inquiry under Article 311 (2) of the Constitution is not necessary. Under these circumstances, we are not bound by the aforesaid decision of this Tribunal in OA No. 300/97 dated 20.11.1997. We are of the view that all these

...contd.

applications deserve to be dismissed in the light of the aforesaid decisions of the Supreme Court and the earlier decision of this Tribunal cited by the learned counsel for respondents. If so advised, the applicants may challenge this order before the High Court by filing writ petitions. They cannot urge that as OA No. 300/97 decided by the Tribunal, these O.A.s be also similarly decided and the respondents be forced to go to the High Court and obtain stay of operation of this order.

7. In the result, all these applications fail and they are hereby dismissed. We make no order as to costs because all the applicants appear to be very poor people.

(K. M. Agarwal)
Chairman

(R. K. Ahooja)
Member (A)

/as/

True copy

PRITAM SINGH
Court Officer
Central Administrative Tribunal
Principal Bench
Faridkot House, New Delhi