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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 413/95

New Delhi this the 20th day of December 1995

Hon'ble Shri A.V. Haridasan, Vice-Chairman(3)
Hon'ble Shri R.K. Ahooja, Member (A)

Shri Virender Kumar Yadav
S/o Shri Mahavir Singh
Resident of RZ-48/80/85
Gali No. 6, East Sagar Pur
Delhi: 110046

....Applicant

(By Advocate: Mrs Meera Chhibber)

Versus

1. Director of Education,
Govt of Capital Territory of Delhi
Old Secretariat,
Delhi-110006.

2. Delhi Administration
through the
Deputy Director of Education
District West,
New Moti Nagar
New Delhi.

3. Shri Bhim Singh Yadav
Incharge
Govt Boys Adult Secondary School
Najafgarh. Delhi 110043.

....Respondents

(By Advocate: Shri Amresh Mathur)

ORDER (Oral)

Hon'ble Shri A.V. Haridasan, Vice-Chairman(3)

The applicant was appointed by the office of the Deputy Director of Education, District West, New Moti Nagar as a part-time T.S.T. by office order dated 6-1-93 in Government Boys Adult Secondary School for the period of one year. After the expiry of the said period of one year without any specific order the applicant continued in service. The services of the applicant is that he had performed duty as TGT upto 17-1-95 as which date as a result of a quarrel between him and the respondent No-3, the respondent No-3

scored off the entries in the attendance register from 5-1-95 to 17-1-95; did not allow him to perform his duties, though he has been reporting every day and that his salary for the whole month of January 1995 though was drawn by the respondent No-3, was not paid to him. According to the applicant, as a post of part-time T.G.T. is still vacant and since he has been continued beyond the period of initial contract; the action of the third respondent not to allow him to perform the duties of the post and to pay him the salary is arbitrary, discriminatory and unjustified. It is on the above allegation thus the applicant has filed this application under Section-19 of the Administrative Tribunals Act for a direction to the respondents to allow him to perform duties of the T.G.T. and to pay him the salary for the month of January and to continue to pay his salary.

2. On notice being issued to the application. Shri Amresh Mathur appeared for the respondents and filed a counter affidavit. The respondents do not dispute the fact that even after expiry of period of one year from the initial date of appointment the applicant continued in service. They also do not have a case that the post of TGT part time is not available in the school now. The impugned action is sought to be justified solely on the ground that as the applicant's engagement for a term initially was not extended by any specific order he could be disengaged at any time without notice. The allegation that the applicant performed the duties upto 17-1-95 and the 3rd respondent scored off the entry in the attendance register from 5-1-95 to 17-1-95 is disputed. When the applicant came up for

considering the interim relief Ld Counsel on either side stated that instead of considering ~~for~~ interim relief the application itself can be finally disposed of at the admission stage itself.


3. Learned Counsel for the applicant states that the attendance register if procured will settle the disputed *point* ~~part~~, Learned Counsel for the respondents states that the application can be disposed of on the basis of the materials now available. Thus we have perused the material on records and have heard Mrs Maera Chhibber Counsel for the applicant and Shri Amresh Mathur, Counsel for the respondents. It is the fact beyond disputes that the applicant who was *initially* appointed as part time TGT for a period of one year by order dated 6-1-93 was continued in service through out 1994 and also in 1995 without any specific order. The counsel for the applicant brought to our notice the interim order passed in OA 1879/94 concerning TGT part time in which it was directed that those who were continued as TGT part time should be allowed to continue further so long as the posts are in-existence. In this case also there is no case for the respondents that the post is not in existence. Further the case of the respondents that the applicant performed duties only upto 5-1-95 does not appear to be true because in Annexure A-I the 3rd respondents himself has counter signed DTC Bus pass signed by the applicant on 28-1-95. In any case the post is still in existence and the applicant's service continued beyond the period of original contract. While the service of the


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applicant has been continued beyond the term fixed in the initial order of appointment the respondents are not justified in terminating his services so long as the post is ~~still~~^{and} not filled by a regular hand, except in accordance with law.

4. In the light of what is stated above we allow the application, direct the respondents to allow the applicant to perform the duties of T.G.T. part-time so long as the post is in existence and is not filled by a regularly appointed hand, to pay him the salary for the month of January and thereafter. ^{continuously} If for any valid reasons the services of the applicant has to be terminated the respondents will be ^{free} ~~force~~ to do so, but ^{only} ~~any~~ in accordance with law.

5. There is no order as to costs.


(R.K. AHOOJA)
Member (A)


(A.V. HARIDASAN)
Vice-Chairman (J)

cc.