

## CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.571/1995

New Delhi, this 22nd day of November, 1995

Hon'ble Shri B.K. Singh Member(A)

Dr. M.K. Sharma  
 s/o Shri Ram Singh Sharma  
 A-2, Gali No.5  
 Shivaji Road, North Ghonda, Delhi-53 .. Applicant  
 By Shri D.S.Choudhary, Advocate

Vs.

Union of India, through

1. Secretary  
 M/Human Resources Development  
 Shastri Bhavan, New Delhi
  2. Director of Education  
 Old Secretariat, Delhi-54
  3. The Dy. Director of Education(East)  
 Rani Garden, Delhi-31
  4. Smt. P.L. Gupta  
 Vice Principal  
 Govt. Comp(M)GSS School  
 Khajuri Khas, Delhi-54 .. Respondents
- By Shri Rajinder Pandita, Advocate

ORDER(oral)

Heard the learned counsel for the parties,

This OA has been filed seeking the following reliefs:

- (1) release the salary of the applicant without further delay with effect from 1.5.94 till date;
- (2) Transfer the LPC and Service Book etc. of the applicant to the present place of posting; and
- (3) pay interest @ 18% on the arrears of delayed payment of salary to the applicant.


 ..P/2

2. On the last date of hearing, it was admitted that the service book and LPC have already been despatched and the LPC was in the hands of the applicant. It has now been stated that the Principal of the present school has sent back LPC to the Principal of the earlier school, where the applicant was working, for removing certain objections. It is presumed that the objections would have been removed enabling the applicant to receive the amounts due. As regards the period from 1.5.94, it may be stated that the transfer order dated 26.4.94 (Annexure A/2) clearly indicates that the applicant was transferred on deputation with the stipulation that he would continue to draw his salary and allowances from the same school as before. The applicant was deputed to work in a newly opened school in Khajuri Khas. There was no regular sanction and that is the reason why the respondents issued the order dated 26.4.94 making it abundantly clear that the teachers concerned will continue to draw their salary and allowances from the same school. The contention that he was not relieved and therefore he could not join the Khajuri Khas is untenable. Relieving order would have deprived him from the facility of drawing pay and allowances from that school. Under Section 114(E) of the Indian Evidence Act, an official communication will be deemed to be bonafide and genuine unless rebutted by other strong grounds. This is an official communication and its validity can not be questioned. The transfer would be deemed to be effective from the date it was




issued by the competent authority. The contention of the applicant that he did not receive this order till 13.5.94 can not be accepted. The Vice-Principal of the school where the applicant was earlier working did not allow the applicant to put his signature in the attendance register since she knew about his deputation to Khajuri Khas school, which he did not join. Once the Vice-Principal informed the applicant that he has been transferred to Khajuri Khas school, he was under obligation to go and join there. It seems that other teachers have joined but the applicant did not join. Therefore, the relief that he may be allowed to draw salary from 1.5.94, can not be granted. The validity of the transfer order is not in question as the official communication is very much on record and enclosed with the OA. The action of the Vice-Principal in cutting out the signature of the applicant from the attendance register maintained by the school of which she was the head was the correct one since the applicant had been transferred and should have joined the school where he was deputed. Non-acceptance of official communication itself is an act of indiscipline. The plea of the applicant that he was served with the transfer order on 13.5.94 can not be accepted. If he was absent and did not join duty while his other colleagues joined, he himself is to be blamed for this and <sup>no</sup> relief can be granted. He will be deemed to be on unauthorised leave. The respondents will have to consider regularisation of his absence by grant of any leave due to him.



3. Grant of 18% interest is allowable only when there is a lapse on the part of the administration. Here there is no lapse on the part of administration. There has been lapse on the part of the applicant on account of his non-joining duty at Khajuri Khas school, which is newly opened school and which he did not join. No case is made out for treating the period as on duty much less grant of any interest whatsoever.

4. The application is dismissed on merits but without any order as to costs.

  
(B.K. Singh)  
Member (A)  
22.11.95

/gtv/