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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2986/97

New Delhi, this the 2nd day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Shri Mahesh Chander Sharma
S/o Shri Hemdutt Sharma
Part Time Teacher
Govt. Adult Sr. Secondary School
Krishna Nagar, Jheel
Delhi.

..... Applicant.

(By Advocate: Sh. B.S. Mainee)

Vs.

1. Hon. Lt. Governor
Govt. of N.C.T. of Delhi
Raj Niwas
Delhi - 110054.

2. Director,
Directorate of Education
Govt. of N.C.T. of Delhi
Old Secretariat
Delhi - 110054.

3. The Dy. Director of Education
East District
Rani Garden
Geeta Colony
Delhi.

..... Respondents

(By Advocate: Sh. Arun Bhardwaj)

O R D E R

Hon'ble Shri T.N. Bhat, Member (J)

The applicant has been working as a part time teacher under the Directorate of Education, Government of NCT of Delhi in the Government Adult Senior Secondary School, Krishna Nagar, Jheel, Delhi and is aggrieved by order dated 16.12.97 by which his services are sought to be terminated. However a perusal of the departmental records furnished by the respondents' counsel reveals that the order of termination was actually passed on 24.12.97 but the same could not be served upon the applicant as, according to the respondents, the applicant has evaded service of the said order.

Signature
2.7.1998

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2. The applicant claims to be an office bearer of the Association formed by the part time teachers which Association had earlier filed the OA No.214/97 seeking regularisation of their services. The applicant like the other part time teachers was being appointed temporarily on a consolidated pay of Rs.500/- p.m. and the last engagement was from 9.1.97 for a period of one year. According to the applicant his services could not have been terminated prior to 8.1.1998. It is further averred by him that OA No.214/97 filed by the Association of which he is an office bearer having been allowed and certain directions having already been issued by the respondents in relation to some other part-time teachers the services of the applicant could not have been terminated.

3. We may herein below extract the operative part of the judgment order dated 11.8.97 passed by this Tribunal in OA No.214/97.

"We direct that the respondents shall consider the cases of the applicants for regularisation as per the present policy of the recruitment rules and in the light of the decision of the Hon ble Supreme Court and this Court's order dated 31.1.1997 above stated. The said process of regularisation shall be complete within a period of three months from the date of receipt of a copy of this judgment and till then the services of the applicants shall not be discontinued and shall be continued under the same terms and conditions as earlier. With these, this Original Application is disposed of. No order as to costs."

4. A bare reading of the aforesaid order passed by the Tribunal would make it quite clear that the respondents were required to take a decision after considering the cases of the part time teachers for regularisation within a period of 3 months from the date of receipt of a copy of the judgment and they were further

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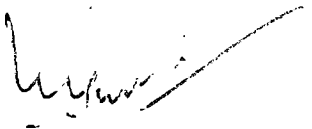
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legally bound to continue to engage the part time teachers on the same terms and conditions as earlier. In other words, they could not discontinue the services of the part time teachers and were bound to continue their services under the terms and conditions which applied earlier.

5. It is not disputed that applicant is also one of the members of the Association which fact finds further support from the contents of Annexure A-1 which contains the details regarding the dates of appointment, qualifications, dates of birth of the persons working as part time teachers. These details have been furnished by the applicant.

6. The plea taken by the respondents is that the services of the applicant were not terminated in contravention of the judgment order of the Tribunal but that the same was done after holding an enquiry into the complaints received against the applicant. Thus, admittedly, the impugned action of the respondents is not a termination of the applicants services simpliciter but has been done as a punitive measure against the applicant when a complaint was received against him.

7. We have examined the relevant records furnished by the department concerned and find that the DEO (Zone) III, one Sh. L.K.Sharma had been deputed to hold an enquiry ^{on the complaint} made by the concerned Vice Principal against the applicant. All that he did was to take brief written statements from some witnesses, all of them working as teachers, and submitting his report in the following words:-

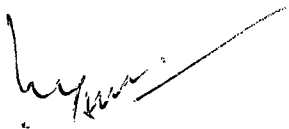


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"As per the statements of the above officials it seems that Sh. Mahesh Chand Sharma, PT TGT used unparliamentary language against the Vice Principal and misbehaved."

8. On this report submitted by the DEO, a decision was taken to terminate the services of the applicant. In the meantime, however, a legal notice was served on the respondents by the applicant through his counsel. Although in the impugned order dated 16.12.97 there is no mention of the complaint against the applicant, it is admitted that it was due to the complaint that the applicant's services were terminated.

9. The learned counsel for the respondents has urged before us that since the applicant was only a part time and temporary employee, his services could have been terminated at any time. In normal circumstances, this contention could have been validly made. But we have an abnormal situation here. The applicant is protected by a judgment order of the Tribunal and the respondents have been directed to continue to engage him on the same terms and conditions under which he was being engaged earlier till a decision on the question of regularisation of his services is taken. That being so the respondents were required to act in a more responsible manner while terminating the services of the applicant as a measure of punishment. In holding this view we are not suggesting that the respondents have no powers to terminate the service of the applicant in case there were complaints against his work and conduct. What we are trying to emphasise is that some sort of show cause notice ought to have been given to the applicant and he should have been

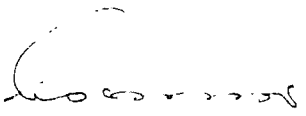


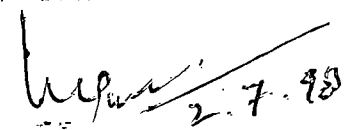
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afforded a reasonable opportunity to explain. This is so in view of the peculiar circumstances of the case, though ordinarily he would not have been entitled to any show cause notice. We are of the considered view that in the absence of show cause notice the impugned order of termination of applicant's services cannot be sustained.

10. For the foregoing reasons, we allow this OA and quash the order terminating the applicant's services. It shall, however, be open to the respondents to take a fresh decision in the matter of the complaint against the applicant but only after issuing show cause notice to the applicant and considering his reply to the same, if he chooses to give any reply. We make it clear that the applicant will not be entitled to any back wages.

11. With the above order the OA is disposed of, leaving the parties to bear their own costs.


(S. B. BISWAS)
Member (A)


(T.N. BHAT)
Member (J)