

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.37/94

New Delhi, this the 26th day of July, 1999

(5)

HON'BLE MR.JUSTICE D.N.BARUAH, VICE CHAIRMAN(J)  
HON'BLE MR.N.SAHU, MEMBER(ADMNV)

J.B.Gupta, PGT,  
Govt. Boys Sr.Sec.School,  
Roop Nagar, Delhi-110007

....Applicant

(By Advocate: None)

Versus

Union of India-through

1.The Director of Education,  
NCT of Delhi, Old Secretariat,  
Delhi.

2.The Deputy Director of Education,  
Dist. North, Directorate of Edn.  
NCT of Delhi, Delhi.

....Respondents.

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

BY BARUAH, J.-

This application is directed against the order dated 22.11.88 (Annexure A-2) issued by the Director (Education), Delhi Administration imposing the penalty of withholding the increments for two years, with cumulative effect in terms of Rule 11(v) read with Rule 12 of the CCS (CCA) Rules, 1965 and order dated 8.7.93 (Annexure A-1) confirming the decision of the disciplinary authority and the penalty imposed on him.



(6)

2. At the material time, the applicant was working as Trained Graduate Teacher(TGT) under Delhi Administration. An Article of Charge along with the statement of imputation was served on the applicant asking him to show-cause why the disciplinary action should not be taken against him. An Enquiry Officer was appointed. He enquired the matter and submitted his report holding that the charges were not proved. However, the disciplinary authority did not agree with the findings of the enquiry officer and observed as follows:-

"AND WHEREAS I have thoroughly gone into the Inquiry Report, Defence Statement and all other relevant material on record. I do not agree with the findings of the Inquiring Authority on account of the following concise reasons:-

(i) It is not correct that the Directorate of Education directed Shri Jai Bhagwan Gupta vide this office letter dated 19th Feb., 1983 for the first time to join his duties after relinquishing the foreign assignment. The fact remains that Shri Jai Bhagwan Gupta while posted as Education Officer, GSS, Mubi, Gangola State, Nigeria, was directed vide this office letter No.F.1-1/78/R&S/E.II/29438 dated 27.5.82 to report back for duty to this Directorate without any further delay failing which disciplinary action will be taken against him. This warning was ignored by Shri Jai Bhagwan Gupta.

(ii) The letter dated 27.5.82 of this office had unambiguously expressed the intention of the deptt. not to consider his case for extension beyond 24.8.81.

(iii) The letter dated 29.8.83 was not the decision of the Directorate to take ex-parte action but it was just a warning of consequential action in failure of compliance of the direction.



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(iv) That any failure on the part of the Dte. to call back the teacher, in accordance with G.O.I. letter No.1/37/79/FAS dated 2.2.81 and 1/15/87/FAS dated 14.7.82 does not licence the teacher to violate the established terms and conditions of deputation,. The teacher vide his letter dated 15.2.80 to the Nigeria Government had himself shown his desire to stay in Nigeria without any proposal from the Nigeria Government to this effect in existence then.

(v) Clause-10(2) of the terms of agreement with foreign Government inter-alia provided that an employee could terminate his engagement with foreign employer by giving 3 months advance notice. This could have been done had the teacher sincerely wished to honour the terms of deputation."

3. Reasons were recorded by the disciplinary authority in the above order for coming to a different finding. Being aggrieved, the applicant preferred an appeal before the Appellate Authority. The appellate authority considered the same and concurring with the finding of the disciplinary authority, confirmed the penalty imposed. The appellate authority also noticed that the disciplinary authority gave sufficient reasons for not agreeing with the enquiry officer. The present O.A. is filed by the applicant being aggrieved by the order passed by the appellate authority.


4. We have heard Shri Vijay Pandita, learned counsel for the respondents. None appears for the applicant.


5. Shri Pandita submits that there is no infirmity in the impugned order. We have perused the application and the



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written statement filed by the respondents and also the  
impugned order. We find there is no merit in this O.A. It  
is accordingly dismissed. No costs.

  
( N.Sahu )  
Member (Admnv)

  
( D.N. Baruah )  
Vice Chairman (J)

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