

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 295/2000

7

New Delhi this the 10th day of July, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Shri J.P.S.Rathor,
S/o late Shri C.L.Singh,
R/o C-23, Mahendra Park,
Pankha Road,
New Delhi-110 059. ... Applicant

(By Shri R.K.Gupta, Advocate)

-Versus-

Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi- 110016. Through its Principal Secretary... Respondent

(By Shri S.Rajappa, Advocate)

O R D E R (ORAL)

Shri V.K.Majotra, AM:

The applicant has challenged order dated 2.6.1998, Annexure A1 whereby he has been placed under suspension and also order dated 12.10.1999, Annexure A2 whereby his appeal dated 23.8.1999 regarding revocation of suspension has been rejected. The applicant has sought the quashing of the suspension order dated 2.6.1998, Annexure A1 and a direction to the respondents to reinstate him in service. The applicant had been the Principal, Kendriya Vidyalaya, Damoh when his suspension was ordered on 2.6.1998. He is due to superannuate on 31.7.2000. It has been pointed out on behalf of the applicant that he had been suspended on account of personal grudge of one Shri S.B. Chaturvedi, the then Assistant



8

Commissioner, Jabalpur. It has also been alleged that he is not being allowed to engage a Defence Assistant of his choice. He is being compelled to have somebody as Defence Assistant from Jabalpur/Gwalior only. The applicant wanted to engage one Shri R.G.Nagia as his Defence Assistant from Delhi. It has also been pointed out on behalf of the applicant that the respondent has not given the names of any witnesses in Annexure A-4 along with the chargesheet. Therefore, the disciplinary enquiry is only meant to harass the applicant because the respondent will not be in a position to prove any document.

2. The learned counsel of the applicant has relied on a decision of the Ernakulam Bench of this Tribunal in the case of **P.S.Gopala Pillai v. Union of India and others**, rendered in OA No. 413 of 1991 on 14.2.1992 contending that documents produced in an enquiry without the testimony of its custodian cannot be treated as evidence against the delinquent. It has been stated on behalf of the applicant that if the respondent allowed Shri R.G.Nagia to be appointed as his Defence Assistant, he will be prepared to bear the expenditure involved in taking Shri Nagia to Jabalpur/Gwalior/ Bhopal wherever the enquiry is to be conducted against the applicant. The applicant has sought the setting aside of his suspension order and direction to the respondent for his reinstatement in service as his reitrement is approaching fast on 31.7.2000.

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3. According to the respondent, the delay in the progress of the disciplinary enquiry has to be attributed to the applicant because he has been insisting upon having Shri R.G.Nagia as his Defence Assistant. Had he agreed to the appointment of anyone else from Jabalpur/Gwalior i.e. the region where he had been working prior to his suspension, there would not have been any problem and the enquiry would have been disposed of by now. The learned counsel for the respondent objected to the revocation of the suspension of the applicant contending that it will come in the way of ^{the smooth} ~~smooth~~ conduct of the enquiry against him.

4. In view of the fact that the applicant is prepared to bear the expenditure involved in case Shri R.G.Nagia is appointed his Defence Assistant, in our view, there cannot be any objection to the appointment of Shri Nagia as applicant's Defence Assistant in the disciplinary enquiry. The only point that has been raised by the learned counsel for the respondent is that Shri Nagia has been transferred from Delhi to Chandigarh Region and he has filed an OA in the Tribunal. In case Shri Nagia is permitted to be appointed as applicant's Defence Assistant in the departmental enquiry, he should not be allowed to ^{drive} ~~drive~~ any advantage in his own OA. This goes without saying that Shri Nagia will not have any advantage in his own OA on account of his appointment as Defence Assistant of the applicant in the departmental enquiry to be conducted against him. The

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time taken in the journey and in the departmental enquiry against the applicant when Shri Nangia appears before the enquiry officer as Defence Assistant of the applicant, in any case will not be treated as time spent on duty by Shri Nagia. However, this will be subject to final orders in his own OA. We are also of the view that whereas the applicant is going to retire on 31.7.2000, his reinstatement in service and revocation of suspension order will not result in influencing^h the witnesses in the enquiry or tampering of the records. In our view, the ends of justice will be met if the suspension of the applicant is revoked, and he is reinstated in service and the respondent is directed to conclude the enquiry expeditiously.^h In the facts and circumstances of the case, the respondent is directed to revoke the suspension order of the applicant dated 2.6.1998, Annexure A-1 and reinstate him in service forthwith. The respondent is further directed to take adequate steps to complete the enquiry against the applicant within a period of three months from the date of service of this order. The applicant has agreed to cooperate with the authorities in the conduct of the enquiry towards its expeditious disposal as stated above.

h 5. The OA is disposed of in the above terms but

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without any order as to costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

Ashok Agarwal

(Ashok Agarwal)
Chairman

sns/