

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 933 of 2000

New Delhi, this the 3rd day of August, 2001

HON'BLE MR. KULDIP SINGH, MEMBER(JUDL)

Ms. Anju D/o Sh. P. S. Solanki
R/o House No. 16/64-A, Old Chandrawal Civil Lines
Delhi-110 054. -APPLICANT

(By Advocate: Shri R. K. Shukla)

Versus

1. Government of NCT of Delhi
Through Director of Education,
Old Secretariat,
Delhi-110 054
2. Director of Education,
Government of NCT of Delhi,
Old Secretariat,
Delhi-110 054.
3. Deputy Director of Education,
District North-West Delhi,
Pitampura, FU Block Delhi.
4. Principal, Sarvodaya Vidyalaya
'U' Block, Mangol Puri,
Delhi. -RESPONDENTS

(By Advocate: Mrs. Avnish Ahlawat)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member(Judl)

The applicant in this OA has assailed an order dated 1.2.2000 (Annexure A-4) vide which her services had been terminated. The applicant has prayed for quashing of the order dated 1.2.2000 passed by the respondents with a further direction to the respondents to re-employ the applicant on her previous post with benefits of arrears of pay, seniority etc.

2. The facts, as alleged by the applicant in brief are, that in the month of March, 1998 due to non-availability of school teachers in the schools

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(b)

situated in rural, backward, slums etc. the Government of NCT of Delhi in order to take remedial steps appointed 3000 teachers for various schools on ad hoc basis on a consolidated salary. The applicant was also appointed vide letter Annexure A-1 which contained terms and conditions for appointment. However, the appointment was extended upto 31.3.99 vide order dated 18.12.1998, (Annexure A-3). Since the appointment was to be terminated by 31.3.99 the applicant approached this Tribunal and it is stated that vide a judgment dated 7.5.99, following directions were given in the earlier

OA:-

(A) Applicants shall be allowed to continue in the present post till regular candidates duly selected by DSSSB/or appropriate authorities are available to replace the applicants.

(B) Those selected regularly shall first be posted in the existing vacant positions and only if enough vacant posts are not available, they should be posted against the posts held by the ad hoc appointees. Replacement of the latter should be on the principle of 'last come first go'. Those so displaced should be accommodated in vacancies that may be existing in other districts.

[Signature]

(C) The ad hoc appointees shall be paid minimum in the pay scale of regular teachers plus DDA in terms of law laid down by Hon'ble Supreme Court in the case of Daily Rated Casuals Laborers Vs. UOI & Others (1998(1) SCC 122).

(D) No ad hoc appointee shall be replaced by any newly appointed ad hoc employee.

(E) Those of the applicants who have applied or may apply for regular selections, necessary relaxation in age shall be given to the extend of the period of service put in by them.

3. However, the Delhi Administration had gone in a Writ Petition against the stay order wherein the order of the Tribunal was upheld but directions given in para B above were not approved and were quashed.

4. The applicant now claims that on 1.2.2000 respondent No.4 had terminated her services without giving one month's notice or one months remuneration as per the terms and conditions of the appointment and secondly the services of the applicant have been terminated without the respondents completing their entire exercise of disengaging some teachers or re-employing them. Besides that the services of the applicant who was appointed as TGT (Sanskrit) are being terminated on the pretext of joining some new regular teacher as TGT drawing in the school, thus it is alleged that the applicant is not being even replaced by a regularly TGT (Sanskrit) Teacher. So on these grounds

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the action of the respondents in terminating the services of the applicant and relieving the applicant is being challenged which is illegal and arbitrary.

5. The respondents are contesting the OA. The respondents in their reply pleaded that the Hon'ble Delhi High Court in Writ Petition No. 6363/99 has already given a direction that the contract teachers have no right to continue on the post and they have to make way for the regularly absorbed teachers and that is why the Hon'ble High Court has quashed the direction given by the Tribunal.

6. It is also stated that the petitioner apparently had been engaged as a contract teacher in TGT (Sanskrit) in U-Block, Mangol Puri where there was no post of TGT Sanskrit lying vacant and it is stated that it appears that the then Deputy Director (North West) illegally appointed the applicant as TGT Sanskrit when there was no post of TGT (Sanskrit) lying vacant and applicant's salary was drawn against the post of 'drawing teacher' so the applicant's appointment at the first instance was illegal as such the applicant has no right to continue on the same post and even otherwise now when the regular drawing teacher has joined the school so there is no vacancy of drawing teacher as such the applicant has to be relieved so it is stated that the OA is liable to be dismissed.

7. As regards the terms and conditions as contained in the appointment letter Annexure-I is concerned, the respondents pointed out that those terms

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and conditions were valid till March, 1999 thereafter the applicant having approached the court and the matter had gone in a Writ Petition before the Hon'ble High Court, the terms and conditions have been modified by the order of the Hon'ble High Court and the respondents have been given liberty to terminate the services of any contract teacher whenever a regularly selected teacher becomes available. So the applicant cannot insist on terms and conditions which were available to them till 31.3.99.

8. I have heard the learned counsel for the parties and gone through the various documents placed on record.

9. The counsel for the applicant has also submitted written submissions. I have also gone through the same.

10. At the outset I may mention that there is no reply to the effect that the applicant was appointed against a vacant post of TGT (Drawing) and not against TGT (Sanskrit). In order to substantiate the contention of the department that on the date of appointment of the applicant no clear vacancy of TGT was available in the concerned school, the department has also placed on record the vacancy position as on February, 2000 as well as August, 1998 which shows that in August, 1998 there was no vacancy with regard to Sanskrit language Teacher and there were two vacancies of drawing teacher and even in February, 2000 there was no vacancy in the Sanskrit discipline but one vacancy of drawing teacher existed. Thus the applicant who has been appointed as Sanskrit

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Teacher and her salary was drawn against the post of drawing teacher cannot be allowed to continue as a Sanskrit Teacher against the post of Drawing Teacher particularly so when a regular selected drawing teacher has joined the school and now there is no vacancy of even drawing teacher, thus on the face of record it is quite manifest that the applicant is being replaced by a regularly selected teacher for which a vacancy exists in school.

11. As regards the contention of the applicant that the services of the applicant has been terminated in violation of the terms of appointment and the applicant has also relied upon a judgment reported in 2000(6) SCALE page 85 entitled as Prabhudayal Bihari VS. M.P. Rajya Nagrik Aapurti Nigam Limited wherein it was held that "the order of termination of services of the appellant was made in contravention of the specific condition mentioned in the very appointment order, the trial court was right and justified in decreeing the suit of the appellant". The applicant further submitted that the termination of services of appellant without giving one month's notice or one month's salary was held to be illegal. In this regard I may mention that this judgment as relied upon by the applicant does not apply to the present facts of the case because the terms and conditions which governed the appointment of the applicant were available to the applicant only upto 31.3.99 and thereafter the applicant was in service because of the modified terms and conditions as per the directions of the court given in Writ Petition No.6363/99 and the order passed in the Writ Petition No.6363/99

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clearly mentions that whenever a regularly selected teacher becomes available then the services of a contract teacher could be dispensed with and in this case the applicant who was a sanskrit teacher but was working against the vacant post of TGT Drawing Teacher and that a regular teacher had joined the school, so no vacancy exists for the drawing teacher as even of Sanskrit teacher in the said school, hence the applicant has been rightly relieved and as such I do not find any reason to interfere with the impugned order.

12. In view of the above, nothing survives in this
OA. No costs.

Kuldeep
(KULDIP SINGH)
MEMBER(JUDL)

Rakesh