

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

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O.A. No. 2324/89
T.A. No.

198 9

DATE OF DECISION 26/3/90

Krishan Mistry Applicant (s)

Shri A.K. Behra Advocate for the Applicant (s)

Versus

Union of India Respondent (s)

Shri M.M. Sudan, with
Shri S.S. Sangal Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(of the Bench delivered by Hon'ble Shri I.K. Rasgotra, Member(A))

This application, filed on 10.11.1989 under Section 19 of the Central Administrative Tribunals Act, 1985, is against the abrupt, illegal and oral termination of services of the applicant, who was a peon, by respondents No.2 on 3.2.1989 and against non-payment of wages from the date of engagement to the date of termination of his services. The applicant has prayed that the respondents may be directed to pay him his back wages and also to regularise his services in the said post.

2. The respondents in their counter have submitted that the Co-education Middle School in Shastri Park was opened on 15.4.88 and initially one Head Master and four teachers were deputed to the new school as a temporary arrangement. These teachers were borne on the strength of other schools and continued to draw their salaries from their parent schools. The sanction for the nine posts of teachers was issued for the new school in Shastri Park by the Directorate of Delhi only on 1.5.88. It has been

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admitted in the counter that the applicant has marked his attendance in the staff register for the period 1.8.1988 to 2.2.1989. The respondents however deny that applicant was appointed in the school. They have further stated that the circumstances in which the applicant was allowed to mark attendance by the then Head Master (now retired) are not known. They have further stated that the Head Master is not the competent authority to make appointments.

3. We have heard the Ld. Counsel of both the parties and gone through the record. The engagement of the applicant as peon w.e.f. 15.4.1988 is certified by the Parent Teacher Association vide (Annexure A-1) which we are not inclined to take cognizance of. According to the certificate at Annexure A-2 issued by the Head Master, Government Co-education Middle School, Shastri Park, the attendance of the applicant is marked in the staff register from 1st August, 1988 to 3rd February, 1989 only.

4. Keeping in view the facts and circumstances of the case, we order and direct that the respondents should pay the salary to the applicant for the period 1.8.1988 to 3.2.1989 at the minimum of the scale of pay of ^a peon as ² obtaining in the Delhi Administration schools. We further direct that the applicant should be considered for appointment alongwith others in the co-education Middle School, Shastri Park, where he was employed till 3.2.1989 against the post of the peon since sanctioned by the Directorate of Education.

5. There will be no orders as to the costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member(A) 26/3/90

T.S. Oberoi
(T.S. Oberoi)
Member(J)
26/3/90