

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**



Hearing through video conferencing

T.A./61/1743/2020 (SWP.No.2013/2012)

This the 19th day of November, 2020

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

1. Naseem Akhter, Age 56 years, W/o Sh. Ghulam Rasool, R/o Village Keya, Tehsil Ramnagar, District Udhampur.
2. Ghulam Mohammad Sadiq, Age 54 years, S/o Ghulam Rasool, R/o Village Keya, Tehsil Ramnagar, District Udhampur

.....Applicant
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(Advocate: Mr. Faheem Shokat Butt)

Versus

1. State of Jammu and Kashmir through Commissioner Secretary to Govt., Education Department, Civil Sectt; Srinagar/Jammu.
2. Chief Education Officer, Udhampur.
3. Principal, Govt. Higher Secondary School, Keya (Ramnagar).
4. Rumi Kumar, Principal, Govt. Higher Secondary School, Keya (Remnagar)

.....Respondent

(Advocate:- Mr. Rajesh Thappa, Deputy Advocate General)

ORDER
[O R A L]

Justice L. Narasimha Reddy, Chairman:

The first applicant is working as Peon and the second applicant as Master in the Government Higher Secondary school (10+2), Keya (Ramnagar), District Udhampur. The Principal of the Institution i.e., the 3rd respondent, passed an order dated 04.08.2017, stating that when he was proceeding to School and came to the house of second applicant, along with Peon by name Mr.Balmukesh, he saw the students of 11th Class sitting near the shop of brother of the 2nd applicant and when he verified about them, the applicants started beating him. It was also mentioned that they have instigated the local women to attack him. He mentioned that in view of the said incident, he suspended and relieved the 2nd applicant and directed him to report to the Chief Education Officer, Udhampur. On the same date, he passed two separate orders relieving both the applicants from duties while stating they are suspended.

2. The applicants filed SWP.No.2013/2012, before the Hon'ble High Court of Jammu & Kashmir, challenging the orders of suspension. The Hon'ble High Court of Jammu & Kashmir passed an interim order staying the operation of the said orders. In view of the reorganization of the State of Jammu & Kashmir into Union Territory, the Writ Petition has been transferred to this Tribunal and re-numbered as TA.No.1743/2020.

3. Today, we heard Mr.Fahem Shokat Butt, learned counsel for the Applicants and Mr.Amit Gupta, learned Additional Advocate General.

4. On 04.08.2017, the 3rd respondent passed four separate orders. In one, he mentioned the development and factum of suspension and in two other orders, he relieved the applicants herein as a sequel to the suspension. The incident no doubt appears to be grave. The fact, however remains that the 3rd respondent is the appointing authority for the applicants. Further, there is no mention of any contemplation of disciplinary proceedings or involvement of public interest.

5. It is fairly well settled that an employee can be suspended only by the appointing authority, that too, when disciplinary proceedings are contemplated and suspension felt is in public interest. If the suspension is ordered in the absence of the factors referred to above, it tends to become a punishment, in contravention of law.

6. We, therefore, allow the OA and set aside the impugned orders. It is, however, left open to the concerned appointing authority of the applicants to take into account, the facts reported by the 3rd respondent and to take a decision in this behalf, within two months from the date of receipt a copy of this order. If it is decided that no proceedings need to be initiated against the applicants, necessary orders shall be passed as to the manner in which the period during

which the applicants remained under suspension, must be treated in accordance with the relevant provisions of law. There shall be no order as to costs.

(A.K. BISHNOI)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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