

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A./61/2453/2020 (SWP.No.696/2019)



This the 19th day of November, 2020

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

Jeet Raj Sharma, Age – 50 years, S/o Sh. Krishan Lal, R/o Ward No. 13, Shiv Colony, Akhnoor, Jammu.

.....Applicant

(Advocate: Mr. Karman Singh Johal)

Versus

1. State of Jammu and Kashmir through Commissioner/Secretary to Govt., Education Department, Civil Secretariat, Jammu.
2. Director, School Education, Jammu.
3. Principal, Govt. Medical College, Jammu.
4. Chief Education officer, Jammu.
5. Zonal Education Officer, Jourian.

.....Respondents

(Advocate:- Mr. Amit Gupta, Additional Advocate General)

O R D E R
(Oral)

Justice L. Narasimha Reddy, Chairman:

The applicant is working as Master in Government Middle School, Jadh, Jammu. He was placed under suspension on 05.10.2016 on the allegation that he misbehaved and harassed female Teachers in the institution. Aggrieved by the order of suspension, he filed SWP No. 2259 of 2016 before the Hon'ble High Court of Jammu and Kashmir. That was disposed of on 19.05.2017 with a direction to the competent authority to consider the case of the applicant as regards continuance of suspension, through a speaking order.

2. Thereafter, the matter was entrusted to the Joint Director (Jammu/Kathua/Samba), and he in turn, submitted a report on 25.05.2017. Taking that, and the other material into account, the Review Committee took a decision to continue the applicant under suspension.

3. The applicant initiated contempt proceedings, vide CPSWP.No.598/2017 before the Hon'ble High Court of Jammu & Kashmir. The Hon'ble High Court passed an order dated 07.07.2018 directing appearance of the Director of School Education, in case compliance is not filed within the stipulated time. At that stage, the Directorate of School Education passed an order dated 26.02.2019, reinstating the applicant into service with a warning to him, to be careful in future, and to constitute a committee of officers to verify the

allegations levelled against him as mentioned in the report dated 25.05.2017. They have also reserved to them, the right to transfer the applicant to any of the four places indicated.

4. The applicant filed SWP No.696/2019 challenging the order dated 26.02.2019, in which certain conditions were incorporated while reinstating him. He complained of neurological problem in the context of his proposed transfer to other places. An interim order was passed on 25.04.2019, directing that it shall be open to the applicant to approach the Director in case any such problem exists.

5. In view of the re-organization of the State of Jammu & Kashmir, the SWP was transferred to this Tribunal and re-numbered as TA.No.2453/2020.

6. Today, we heard Shri Karman Singh, learned counsel for the Applicant and Shri Amit Gupta, learned Additional Advocate General, for the Respondents.

7. The present TA (Writ Petition) came to be filed under pitiable circumstances. The applicant was placed under suspension on 05.10.2016. The root cause for that was the complaint made by certain women Teachers alleging acts of harassment against the applicant. It is stated that when the matter was being enquired into, the applicant did not cooperate and ultimately he was placed under suspension. In the SWP.No.696/2019 filed, the Hon'ble High Court of

Jammu & Kashmir had declined to interfere with the order of suspension and disposed of the SWP with the following direction:

"In view of the aforesaid submissions and in view of the provisions contained in Rule 31 of the CCA Rules, 1956, I deem it appropriate to dispose of the writ petition with the direction to the competent authority, namely, Director, School Education to consider the case of the petition for continuance of suspension by a speaking order within one month from the date of receipt of certified copy of the order passed today.

Needless to state that in case the petitioner is not being paid the subsistence allowance for the period of suspension, the same shall be paid to him.

With the aforesaid directions, the petition is disposed of along with connected MP."

8. Stating to be in compliance with the said direction, the respondents examined the matter in detail and the review committee has decided to continue the suspension in view of the gravity of the allegations. The applicant filed CPSWP.No.598/2017 alleging that there was non-compliance on the part of the respondents. It is not known as to whether the decision taken by the review committee was placed before the Hon'ble High Court or not. Once the appearance of the Directorate of Education was ordered, the impugned order was passed with the following observations:

"Whereas, the case of the petitioner was placed before the review committee constituted to review the suspension of the Non-Gazetted employees of School Education, Department and in the minutes of the meeting held under the Chairmanship of Director School Education, Jammu, the committee after threadbare discussions/deliberations, considered the case and decided to pass a speaking order on the basis of the inquiry report and till further orders, the suspension of the employee shall continue; and

Whereas, the Hon'ble High Court, vide order dated 07.07.2018 in CPSWP.No.598/2017 in SWP.No.2259/2016 issued the following directions:-

'At the request of Mr.Ravinder Gupta, learned AAG, reluctantly four weeks as last and final opportunity is granted to the respondents for filing compliance, failing which the Director School Education, Jammu, shall appear in person on the next date of hearing.'

Whereas, the matter was placed before the review committee on 08.02.2019 and the committee decided to consider the case in the light of the Hon'ble High Court directions and decided to reinstate the official with a warning to be careful in future besides it was also decided to constitute a committee of officers to verify the allegations levelled against him and as mentioned in report dated 25.05.2017 of Joint Director (J/K/S) Jammu and his period of suspension will be decided separately.

Now, therefore, in view of the afore stated paras and in due compliance to Hon'ble High Court directions, Sh.Jeet Raj, Master, is hereby reinstated with immediate effect and is posted at Govt. HSS, Kathar, Manwar, District Jammu, against available vacancy."

Any person in the place of the applicant would have been satisfied once he is reinstated into service. He cannot have any plausible

objection to be careful, when he is facing allegations of harassment of women employees. Similarly, the respondents have every right to enquire into the allegations and to institute disciplinary proceedings, if necessary. As a matter of fact, any lapse or failure in this behalf would amount to serious dereliction in view of the law laid down by the Hon'ble Supreme Court in *Vishaka & Others v. State of Rajasthan & Others* (1997 (6) SCC 241), and on other similar cases.

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9. At a time, when the Courts and administration are taking every steps to protect the interests of the women at work place, the applicant cannot be just let off after reinstatement, that too under the threat of contempt. Similarly, when the applicant is facing serious allegations of harassment, it is not at all in the interest of the administration to retain him in the same place. They have every right to transfer him to another place.

10. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

**(A.K. BISHNOI)
MEMBER (A)**

**(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN**

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