

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.1757/91

New Delhi this the 6th Day of July, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman(A)  
Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Smt. Neelam Mago,  
R/o 41-A, Gian Park,  
Delhi. ....Applicant

(By Advocate Mrs. Meera Chhibber, though none  
appeared)

Versus

1. Secretary (Education),  
Delhi Administration,  
Delhi.
2. Director of Education,  
Delhi Administration,  
Delhi. ....Respondents

(By Advocate : None)

ORDER (Oral)

Hon'ble Mr. N.V. Krishnan:-

When this case was called twice, none  
appeared for either party. The OA has been on board  
from at least from 3.7.95. Hence, we have decided to  
dispose it of on the basis of the pleadings.

2. The applicant was posted as a Librarian  
in the Government Girl's Senior Secondary School, Vivek  
Vihar, Delhi. While so, disciplinary proceedings were  
initiated against her in respect of three charges,  
which read as follows:-

"ARTICLE-I.

That the said Smt. Neelam Mago, while  
functioning as Lib. in GGSSS- Vivek Vihar,  
Delhi proceeded abroad i.e. Bahrain without  
getting N.O.C. permission of the competent  
authorities w.e.f. 13.12.85. She has, thus  
violated the provisions of Rule-3 of the  
C.C.S. (Conduct) Rules, 1964.

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## ARTICLE-II.

She is absenting her-self from duty in an unauthorised manner w.e.f 13.12.85, thereby contravened the provisions of rule-25 of the C.C.S. (Leave) Rules, 1972.

## ARTICLE-III.

She has started Political influence and thereby trespassed the provisions of Rule-20 of the C.C.S. (Conduct) Rules, 1964."

2. An enquiry was conducted and a report has been submitted by the Enquiry Officer (Annexure D-2).

It is seen therefrom that the factum of unauthorised absence of the applicant has been established. Though the Enquiry Officer has not stated in so many words, he has held Article-I and Article-II of the charges as proved. In respect of Article-III his finding seems to be that this has not been established. He has also specifically stated that there were certain extenuating circumstances which compelled the applicant to act as she did in this case.

3. The disciplinary authority has found that the Charges-I and II are established, namely that the applicant went abroad without getting permission and has been absent without proper sanction of the competent authority and has been absent unauthorisedly. Hence, the penalty of removal from service has been imposed by the order dated 31.8.89 (Annexure H). The applicant preferred an appeal to the Secretary (Education), i.e., the first respondent on 27.12.89 (Annexure-I). Despite reminders the appeal does not appear to have been disposed of.

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Hence, this OA was filed on 9.7.91 to quash the order of the disciplinary authority and to reinstate the applicant in service with consequential benefits.

4. The respondents have filed a reply in which, in para 4.17, it is admitted that the appeal filed by the applicant is pending.

5. The applicant has also filed MA-2175/91 for condonation of delay. The appeal was filed on 27.12.89. If it was not disposed of in six months (i.e. before 27.6.90), OA ought to have been filed on or before 27.6.91. It has been filed on 9.7.91. In view of the submissions made in the MA, the MA is allowed and the delay is condoned.

6. We have carefully considered the matter. This is a case where the extreme penalty of removal from service has been imposed for unauthorised absence. In our view one of the issue to be considered is whether the penalty imposed is totally disproportionate to the charges proved. That can be done only by the appellate authority. As the appeal is already pending, we are of the view that the proper course would be to direct the appellate authority to dispose of the pending appeal.

7. Accordingly, without going into the merits of the case, we dispose of this OA with a direction to the appellate authority, i.e., the first respondent, to dispose of the appeal filed by the

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applicant within a period of three months from the date of receipt of this order. The O.A. is disposed of accordingly. No costs.

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V.6.7.85

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)  
Member (J)

(N.V. Krishnan)  
Vice-Chairman (A)

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