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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.2051/91

Date of decision:- 5-3-93

Sh.K.K.Garg

...

Applicant

versus

Delhi Administration,
Delhi through its
Chief Secretary & Ors. ..

Respondents

CORAM:-HON'BLE SH.B.N.DHOUNDIYAL, MEMBER(A)
HON'BLE SH.A.K.SINHA, MEMBER(J)

For the Applicant .. Sh.Shyam Babu, Counsel.

For the Respondents .. Sh.Ravinder Dayal,
counsel.

1. Whether 'Reporters of local papers
may be allowed to see the judgement? x
2. To be referred to to the Reporter
or not? y3-

JUDGEMENT

(Delivered by Hon'ble Sh.B.N.Dhoundiyal,
Member(A))

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 by Shri K.K.Garg, a Principal in the Education Department of Delhi Administration, challenging the impugned letters dated 6.6.90 from Director of Education to the Director Vigilance to initiate disciplinary proceedings against the applicant (Annexure B) and dated 3.1.91 from Joint Secretary (Education) informing him that his case for regularisation as Principal has been kept under sealed cover (Annexure E).

2. The applicant joined as Trained Graduate Teacher and rising through the hierarchy was promoted as Principal on ad hoc basis w.e.f. 27.10.82. The seniority of the applicant in the grade of PGT was revised upward in ^{compliance} ~~response~~ ^{of} a judgement of Delhi High Court and a revised seniority list was brought out on 10.8.79.
by

following reliefs have been prayed for:-

- "(A) Call for the records of the case and quash/set aside the impugned memo dated 3.1.91(Annexure E) and order dated 6.6.90 (Annexure.B)
- (B) give directions to the respondent to regularise the applicant as Principal with effect from 7.7.90 in view of the judgement dated 19.5.1989 in T 818/85 and place his name above Shri B.C.Sharma (Sr.No.21) and below Shri N.D.Tiwari in the seniority list.
- (C) quash/set aside the disciplinary proceedings alleged to have been pending against the applicant as stated in Memo dated 3.1.1991.
- (D) grant all consequential reliefs/benefits to the applicant including seniority monetary or promotions.
- (E) pass such other or further orders as may be deemed to be fit and proper in the circumstances of the case; and
- (F) award cost of the application."

3. The respondents have stated that on the basis of a news item published in the issue dated 13.8.85 of Punjab Kesari, the investigations carried out by the Anti Corruption Branch revealed that private operators who were given contracts at very low rates for bringing students from rural areas were showing the covered distance much more than the actual. The applicant was one of the members of the tender committee ^{alleged} which was/to have committed a lapse and violation of Rule 3 of the CCS(Conduct) Rules, 1964, by accepting tenders at unrealistically low rates. The Principals had wrongly verified the excessive mileage claimed by the operators. Draft chargesheets were sent by the Director of Education ^{by} to Director Vigilance vide letter dated 5.6.90 for initiation of disciplinary proceedings. The Director of Education vide his letter dated 10.9.91 requested withdrawal of the name of the applicant from ^{the} of erring officers as verification

was exclusively in the hands of the Principal concerned. The case had been referred to the Central Vigilance Commission. If the applicant is exonerated of the charges, he will be given all the benefits.

4. We have gone through the facts of the case and heard the learned counsel for the parties. It is admitted that the disciplinary proceedings are yet to be initiated in this case and neither a chargesheet has been served nor an enquiry officer appointed. As held by the Supreme Court in the case of Union of India Vs.K.V.Jankiraman (1991(2) SCALE 423), sealed cover procedure can be adopted only if a chargesheet has been filed in criminal/departmental proceedings. This view has been also expressed in OM dated 14.7.77 issued by the Department of Personnel. Another factor to be taken into consideration in this case is the averment made by the respondents that they have already recommended that the name of the applicant may be withdrawn from the list of officers against whom a departmental proceeding has to be initiated. In the light of these considerations, we hold that the applicant is entitled to succeed and the application is, therefore, disposed of with the following orders and directions:-

- (1) The impugned Memo. dated 3.1.91 (Annexure E) and the order dated 6.6.90(Annexure B) are hereby set aside and quashed.
- (2) The respondents are directed to regularise the applicant as Principal from the date his immediate junior was so regularised. For this purpose, the recommendations of the DPC kept in sealed cover shall be opened immediately and action taken accordingly.

- (3) The name of the applicant shall be excluded from the disciplinary proceedings mentioned in Memorandum dated 3.1.91.

The aforesaid directions. shall be complied with by the respondents expeditiously and preferably within a period of six months from the date of receipt of this order.

No costs.

Ashok Kumar Sinha
(A.K.SINHA) 5/3/93
MEMBER(J)

B.N. Dhoondiyal
(B.N.DHOUNDIYAL) 5/3/93
MEMBER(A)