

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

17

OA NO. 2395/2004

This the 12th day of July, 2005

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Kanta Devi
W/o Shri Amar Singh
E-2/200, Nand Nagri,
Delhi-110093.

....Applicant.

(By Advocate: Sh. Rajeev Kumar)

Versus

1. Lt. Governor of Delhi
Raj Niwas Marg,
Delhi-110054.
2. Secretary,
Department of Education,
Government of N.C.T. of Delhi
Old Secretariat, Delhi.
3. Principal,
Sarodaya Kanya Vidyalaya,
J&K Block, Dilshad Garden,
Delhi-110095.

....Respondents

(By Advocate: Sh. Vijay Pandita)

ORDER (ORAL)

By this OA applicant has sought quashing of the order dated 5.4.2004 whereby her representation for reengagement has been rejected (page-11). She has sought a direction to the respondents to re-engage her in service with full back wages including arrears of pay etc. and to consider her for regularization in the Group 'D' post in accordance with rules and regulations.

2. It is submitted by the applicant that she belongs to OBC category and had been working as Aaya as well as Water Women since August 1995 till June 2003 on a salary of Rs.700/- p.m. paid to her from PTA fund. She always worked to the entire satisfaction of the respondents and there was never any complaint against her throughout the period. Her services were disengaged abruptly without giving her any opportunity as schools were closed from 1.5.2003 to 30.6.2003. She went to join her duties on 1.7.2003 but was not allowed to join



her duties. She was also not paid her wages for the month of May and June, 2003. 8

3. The grievance of the applicant is that before disengaging her no show cause notice was given to her nor she was given one month's notice or one month's salary in lieu of notice. She has also referred to some other persons who were earlier working as part time from paid PTA fund yet were subsequently regularized but she has not been regularized. Thus, she is being discriminated against. She has also relied on judgment of this Tribunal given in OA No.2722/99 decided on 30.6.2000 in the case of Smt. Vidhya wherein similar circumstances this Tribunal had directed the respondents to consider the applicant therein for regularization after relaxation of age sympathetically. Counsel for applicant, thus, prayed that some directions should be passed in the case of applicant as well. Counsel for respondents on the other hand submitted that this OA is liable to be dismissed as not maintainable in view of the judgments given in the case of Smt. Vishan Devi OA No.1574/98, Sh. Ashok Kumar OA No.1576/98 and Smt. Shanti Devi OA No.1577/98. They have annexed copy of the judgment dated 12.5.99 passed in OA-1574/98 wherein it is clearly held that this Tribunal has no jurisdiction to go into the service conditions of the applicants who were paid from PTA/Boys' Fund. While coming to this conclusion Tribunal relied on a judgment given by Hon'ble Supreme Court in the case of Union of India vs. Chote Lal and others reported in JT 1998 (8) SC 497. Counsel for respondents, therefore, prayed that the OA may be dismissed as per the judgment given by Hon'ble Supreme Court. On merits they have explained that applicant was engaged by the Parent Teacher Association/NGO from its own funds but she was never appointed by the department against any post. She was paid Rs.500/- p.m. out of PTA fund from 15.4.97 to December 1998 and Rs.700/- p.m. from December 1999 to November 2001 when she was disengaged further in compliance of OM No. DE/1/15/3/99/EL/Vol.II 15091-191 dated 29.10.2001. They have further stated that the certificate annexed by the applicant clearly states that applicant is working on the post of Aaya from PTA fund. Therefore, there was no question of giving her a notice or opportunity as she was not a government



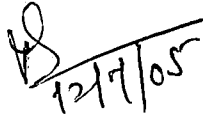
employee nor she was engaged by the department. They have, thus, prayed that the OA may be dismissed on the ground of jurisdiction itself. 19

4. I have heard both the counsel and perused the pleadings as well. Admittedly, as per applicant's own showing she was working as a Water Woman/Aaya since August 1995 and was being paid wages from the PTA fund. PTA fund is Parent Teachers Association fund collected for the purpose of welfare of the children and teachers. By no stretch of imagination can it be said that PTA fund forms part of consolidated fund of India. The preliminary objection raised by the respondents in this case is that we have no jurisdiction to deal with this case as neither applicant was holding a civil post nor she was being paid out of the consolidated fund of India. On this point I need not deliberate further as this point is fully covered by the judgment of Hon'ble Supreme Court in the case of Union of India and another vs. Chote Lal and others reported in JT 1998 (8) 497 wherein Dhobis of National Defence Academy who were being paid salary from the Regimental Fund had approached the Tribunal in relation to their service conditions. The exact question posed before the Hon'ble Supreme Court was whether such Dhobis who were paid out of the Regimental Fund can be said to be holders of civil post within the Ministry of Defence so as to confer jurisdiction on the Central Administrative Tribunal for issuing directions in relation to their service conditions. After considering the rival contentions it was held that such Dhobis cannot be held to be holding any civil post as their appointment is fully private payable out of Regimental Fund. Regimental funds were defined to mean comprising all funds, other than public funds maintained by a Unit. In view of this, it was held that Tribunal has no jurisdiction to go into the question of service conditions of such Dhobis. OAs were accordingly dismissed. The same analogy will have to be applied in the present case also. Admittedly, PTA fund is a private fund which by no stretch of imagination can be said to be a government fund and if applicant was engaged out of PTA fund by the Parent Teacher Association she cannot be said to be holding any civil post. In this view of the matter, no directions can be given by this Tribunal for redressal of her grievance as that is beyond our jurisdiction.



5. Counsel for applicant relied on the judgment dated 30.6.2000 in OA No.2722/99 but since we are dealing with the legal point which has already been decided by Hon'ble Supreme Court and was not even brought to the notice of this Tribunal in OA No.2722/99 this judgment cannot hold the feet.

6. In view of the above discussion, this OA is being dismissed for want of jurisdiction. However, it is clarified that this should not come in the way of respondents, if they again wish to re-engage the applicant or if she wishes to seek redressal of her grievance in an appropriate forum.


12/7/05
(Mrs. MEERA CHHIBBER)
Member (J)

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