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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2744/2004

New Delhi, this the 11th day of August, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Malhotra, Member(A)

Smt. Meena Tuli,
Working as PGT (Commerce),
Gargi Sarvodaya Vidyalaya,
Govt. of NCT of Delhi,
Green Park Extension, New Delhi

....Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. NCT of Delhi through
The Chief Secretary,
New Sectt., New Delhi.
2. The Secretary (Education),
Directorate of Education,
Govt. of NCT of Delhi,
Old Sectt., Delhi
3. The Deputy Director of Education,
Govt. of NCT of Delhi,
District South, Defence Colony,
New Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

Keeping in view certain assertions that were made, the respondents were directed to produce the relevant record. Unhesitatingly, the same have been produced.

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2. Besides other pleas, it has been contended that the order that has been issued is not in conformity with the order that has been passed by the disciplinary authority i.e. the Director of Education. The file reveals that on 2.11.2001, the Director of Education had directed :

- i) suspension be revoked;
- ii) period of absence be treated as Dies-Non; and
- iii) penalty of reduction to lower stage in the time scale of her pay for a period of 2 years with further direction that CO will not earn increments of pay during the period of 2 years and after the expiry of 2 years, the reduction will have the effect of postponing future increments of her pay.

3. The order that has been issued indeed is not strictly in conformity with what has been passed on the administrative file of the department. The same reads:

"Whereas Ms. Meena Tuli, PGT (Commerce) while working in GGSSS Srinivaspuri, New Delhi was charge-sheeted by DDE(South) vide memo No.9042-43 dt. 20.10.99 under Rule 14 of CCS (CCA) Rules 1965 on the following article of charges:-

Article-I

Ms. Meena Tuli, PGT (Commerce) while working in GGSSS, Srinivaspuri has been absenting herself from her duties w.e.f. 02.07.1996 till date. Thus by claiming leave as a matter of right Ms. Meena Tuli, PGT (Commerce) has violated Rule 7 of CCS (Leave) Rule 1972.

Article-II

Ms. Meena Tuli, PGT (Commerce) while working in GGSSS, Srinivaspuri absented herself from her duties from 02.07.96. She has thus failed to maintain devotion to her duties and thus has contravened sub rule (ii) of Rule of CCS (Conduct) Rules 1965.

WHEREAS an Inquiry Officer was appointed in this case by DDE (South) vide order No.F.GGS/DE/Admn/1035-1040 dated 2.2.2000 who has submitted his final report vide which charges leveled against Ms.Meena Tuli, PGT (Commerce) have been proved in the inquiry report and the copy of the same was served upon the charged official by this office.

After considering the facts & circumstances of the case, the Disciplinary Authority worthy Director of Education has imposed upon Ms.Meena Tuli, PGT (Commerce) of GGSSS, Srinivasपुरi :
(1) A penalty of reduction to lower stage in the time scale of her pay for a period of 2 years with further direction that the charged officer will not earn increments of pay during the period of 2 years and after the expiry of 2 years, the reduction will have the effect of postponing the future increment of her pay.

(2) The period of her absence from duty w.e.f. 2.7.96 till date shall be treated as dies-non.

Sd/-
(B.N. BAJPAI)
DEPUTY DIRECTOR OF EDUCATION
DISTRICT:SOUTH: DEFENCE COLONY"


4.On the strength of the same, it has been argued that the entire period from 2.7.96 has been treated as "Dies Non" while it has been pointed out that the applicant is asserted to have remained absent from 2.7.96 to 2.11.99 and was placed under suspension on 22.1.2000.

5.In this backdrop, it is obvious that the period of suspension keeping in view the order passed by the disciplinary authority, could not have been treated as "Dies Non", when the applicant was under suspension. There was no such order passed by the disciplinary authority in this regard.


6.Resultantly, we quash the impugned order and direct that if deemed

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appropriate, a fresh order may be passed in accordance with law.


(S.K. Malhotra)
Member(A)

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(V.S. Aggarwal)
Chairman