

**Central Administrative Tribunal
Principal Bench**

OA No.1938/2004

New Delhi this the 5th day of November 2008.

Hon'ble Mr. Shanker Raju, Member (J)

Smt. Sonia Dua,
W/o Sh. (Dr.) Rajender Kumar,
R/o H. No.593, Srinath Nagar,
Gali No.3, Near St. Mary's School,
Jawalpur, Haridwar.

-Applicant

(By Advocate Shri M.L. Chawla)

-Versus-

1. Union of India through
the Secretary, Ministry of
Human Resource Development,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan (Dehradun Region),
Salawala Hathibarkala,
Dehradun-248001.

-Respondents

(By Advocate Shri S. Rajaapa)

ORDER (ORAL)

Heard the counsel.

2. Applicant assails termination during the probation period while working in Kendriya Vidyalaya Sangathan (KVS). This OA was disposed of on 30.8.2005, against which CWP No.3991/2006 filed before the High Court of Delhi was disposed of on 26.5.2008, remitting the case to the Tribunal for further consideration.
3. During the course of arguments, an order passed by the High Court on 29.3.2006 where the KVS counsel has made a statement to reinstate applicant from a prospective date on



humanitarian grounds without back wages on account of physical disability of the applicant. By an order passed by the Tribunal on 9.9.2008 a prima facie view was taken that applicant's termination was founded on a particular act of misconduct, as her performance was not as such to oust her, respondents' counsel has sought time to take proper instructions regarding offering appointment to the applicant with continuity of service with notional benefits. Today, learned counsel of respondents states that respondents are not agreeable to re-instate applicant with benefit of seniority and promotion.

4. In my considered view keeping in light the fact that the termination was founded on misconduct, yet the agreement arrived at to offer appointment to the applicant, the same will have to be honoured now with continuity of service but insofar as the issue of seniority and consequent promotion is concerned, that will be as per rules, instructions and law on the subject to the confirmation of the applicant and her record. As a result thereof, OA is partly allowed. Impugned order is set aside. Respondents are directed to reinstate applicant in service with continuity of service, however, subject to the above observations, within a period of two months from the date of receipt of a copy of this order. No costs.


(Shanker Raju)
Member (J)

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