

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 3337/1992

New Delhi this the 13th day of August, 1997.

(12)

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI S. P. BISWAS, MEMBER (A)

Smt. Jai Laxmi Rastogi
W/o Shri K. G. Rastogi,
Vice Principal,
G.G.S.S.S., Pratap Nagar,
Delhi.

... Applicant

(By Shri K. C. Mittal, Advocate)

-Versus-

1. Union of India through
Secretary, Ministry of
Human Resources Development
(Department of Education)
Shastri Bhawan, New Delhi.
2. Secretary,
Department of Education,
Government of National Capital
Territory of Delhi,
Old Secretariat,
Delhi.

... Respondents

(None for Respondent No.1. Shri Vijay Pandita,
Counsel for Respondent No.2)

O R D E R (ORAL)

Shri Justice K. M. Agarwal -

Heard the learned counsel for the parties.

The applicant is Vice Principal of G.G.S.S.S.,
Pratap Nagar, Delhi. By the impugned show cause
notice dated 17.11.1992, Annexure-I, she was called
upon to show cause why her promotion to the post of
Vice Principal be not recalled, because according to
the respondents, that promotion order was erroneously
issued in her favour on 28.6.1989. Immediately after

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receipt of the show cause notice, it appears, the applicant filed the present application and obtained an interim order of stay. That appears to be in operation even today.

The application is opposed by the respondents on the ground that by order dated 4.2.1987, the applicant was subjected to a penalty of withholding of increments of pay for three years with cumulative effect. This order was accordingly to remain in force till 3.2.1990, but by mistake, by order dated 28.6.1989, i.e., during the operation of the penalty order, she was promoted to the post of Vice Principal. The mistake was detected very late and as advised by the Government, the impugned show cause notice dated 17.11.1992 was issued against the applicant. It was submitted that as the promotion order was erroneous, the applicant is not entitled to any relief in this application.

After hearing the learned counsel for the parties and perusing the record, we are of the view that the impugned show cause notice dated 17.11.1992, Annexure-I, is not sustainable in law. If it was a mistake in promoting the applicant to the post of Vice Principal, the mistake ought to have been tried to be corrected or actually corrected within a reasonable time. However, a proposal to correct the mistake was made on 17.11.1992, i.e., after expiry of a period of more than three years. Further, we find that till date the applicant has been serving as Vice Principal

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and it will cause great hardship if on the ground of mistake or any error on the part of the respondents, she is permitted to be reverted to a lower post than that of Vice Principal, which she is presently holding.

For the foregoing reasons, this application succeeds and it is hereby allowed. The impugned show cause notice dated 17.11.1992 (Annexure-I) is hereby quashed. In the circumstances of the case, we make no order as to costs.

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(K. M. Agarwal)
Chairman

S. P. Biswas

(S. P. Biswas)
Member (A)

/as/