

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(5)

O.A. No. 2399/93

New Delhi, dated the 19th January, 1994

Hon'ble Mr. N.V. Krishnan, Vice Chairman(A)
Hon'ble Mr. B.S. Hegde, Member (Judicial)

Shri Raj Pal Kedan,
PGT Govt. Boys Sr. Sec. School,
Amalvans, Jwala Puri,
Delhi. 41

... Applicant

(BY Advocate Sh. R.L. Sethi)

Versus

1. The Chief Secretary,
National Capital Territory of Delhi
Alipore Road, Delhi.
2. Director of Education, Old Sectt.
Delhi
3. Dy. Director of Education (West)
Karampura, New Moti Nagar, New Delhi

... Respondents

(None for the respondents)

ORDER (ORAL)

(Hon'ble Mr. N.V. Krishnan, Vice Chairman(A))

The applicant is a Post Graduate Trained Teacher under the first respondent. He was issued a memorandum of charges (Ann. A-2) by the third respondent (Dy. Director of Education) for the alleged misbehaviour with the Principal.

2. He alleges in para 4.13 of the OA as follows:-

"That Respondent No. 3 who was neither the disciplinary nor the appointing authority of the applicant, without jurisdiction appointed Sh. Kuldip Rao, DEO (Zone 23) as Enquiry Officer who-

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- (i) refused supply of additional documents necessary essential for preparation of Defence of the applicant,
- (ii) refused to furnish a copy of the Daily proceedings,
- (iii) refused to allow applicant cross examination of prosecution witnesses etc. thereby exhibiting biased and partial attitude towards applicant.

The applicant then sent a representation on 12.7.1993. (Ann.A-8) to the first respondent (Chief Secretary) who is stated to be the disciplinary authority. A copy of the representation without enclosures was endorsed to the Enquiry Officer with a request that the enquiry proceedings be postponed till the reply was received.

3. Reply to this representation has been given to the applicant by the Memo dated 27.11.1992 (Ann.A-1) by Sh Kuldip Rai, Deputy Education Officer who is the Enquiry officer. This informs the applicant that his request was considered by the competent authority and the same has been rejected.

4. The grievance of the applicant is that a reply to his representation (Ann.A-1) can not be sent by the Enquiry Officer himself. Hence applicant has approached for quashing the charge of memo/alternatively to order a change of the enquiry officer.

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5. Notice on the OA was issued ~~to~~ the respondents. Respondents 1 and 2 have been served. In regard to respondent No.3, u post notice by Regd/ was sent on 13.12.1993. Acknowledgement has still not been received. In the circumstances, we presume service of notice on him. None has filed any reply and none appeared for the respondents.

6. We notice from Ann.A-5 that the first respondent is the appointing authority of the applicant. It is, therefore, improper for the Inquiry officer himself to send a reply to the applicant. We do not see any reason why the appointing authority (i.e. the Chief Secretary)-first respondent- should not have sent a reply or authorised respondent No. 2 or 3 to issue a reply to the applicant.

7. We are of the view that the only relief which the applicant is entitled to get is that he should be given a proper reply by the first respondent (competent authority). In the circumstances, we quash Ann.A-1 reply and direct the first respondent to send a proper reply to the applicant in regard to Ann. A-8 representation within a period of one month from the date of receipt of this order.

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8. Needless to say, if the applicant is still aggrieved by the reply, it is open to him to seek such redress as may be advised.

9. O.A. is disposed of as above at the admission stage.

B.S. Hegde
(B.S. HEGDE)

Member (J)

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(M.V. KRISHNAN)

Vice Chairman (A)

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