

Sudhakar Singh, S/o late B.N. Singh, Principal, Kendriya Vidyalaya, BHU, Varanasi.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1439 of 2004.

B. Ramachandran, S/o Sri V. Beemachari, Principal, Kendriya Vidyalaya, IFFCO, Phulpur. Allahabad.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1440 of 2004.

Smt. Usha Pillai, W/o Sri K.G.A. Pillai, Principal, Kendriya Vidyalaya-III, Jhansi.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application no. 1441 of 2004.

Smt. Swarna Srivastava, W/o Sri K.K. Srivastava, Principal, Kendriya Vidyalaya, OEF, Kanpur.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1442 of 2004.

DR. N. Vasanth, S/o Sri K. Nateson, Principal, Kendriya Vidyalaya, Mau.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1459 of 2004.

Harish Chandra Misra, S/o late Govind Ballabh Misra, Principal, Kendriya Vidyalaya, Kanpur Cantt.

Applicant.

By Advocate : Sri S.C. Tripathi.

With

original Application No. 1460 of 2004.

D.R.S. Chauhan, S/o Sri Ram Kumar Singh, Principal, Kendriya Vidyalaya, Bamrauli, Allahabad.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1461 of 2004.

Bachcha Tewari, S/o Sri Parsuram Tewari, Principal, Kendriya Vidyalaya, Ballia.

Applicant.

By Advocate : Sri A.K. Misra.

With

original Application No. 1462 of 2004.

Ramashray Singh, S/o Sri Tirthraj Singh, Principal, Kendriya Vidyalaya, Uttarkashi, Uttranchal.

Applicant.

By Advocate : Sri A.K. Misra.

Versus.

1. Union of India through the Ministry of Human Resources, Development, New Delhi through its Secretary.
2. Kendriya Vidyalaya Sangathan, an autonomous body (Registered under Societies Registration Act) set up by Ministry of Human Resources Development, Govt. of India, through its Chairman/Hon'ble Minister, Ministry of Human Resources Development, New Delhi.
3. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, SJS Marg, New Delhi.

Respondent nos. 1 to 3 are common in all the O.As.

4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.
5. Respondent in O.A. No. 1427, 1459, 1460, 1434, 1435, 1437, 1439, 1440, 1441 & 1442 of 2004
The Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, I.T.I., Naini, Allahabad.

Respondent in O.A. no. 1427 of 2004.

15. The Chairman, Vidyalaya Management Committee,
Kendriya Vidyalaya-II, Jhansi.
Respondent in O.A. no. 1436, 1437, 1438, 1440, 1441 &
1442 of 2004.

16. The Chairman, Vidyalaya Management Committee,
Kendriya Vidyalaya, IFFCO, Phulpur, Allahabad.
Respondent in O.A. no. 1439 of 2004.

By Advocate : S/Shri D.P. Singh & N.P. Singh.

O R D E R

By JUSTICE S.R. SINGH, V.C.

Heard the learned counsel for the parties and
perused the pleadings on record.

2. Since in the aforesaid cases the facts and the
relief(s) sought for are common and identical, they have
been heard together and a common and consolidated order
is being passed in all the aforesaid O.As.

3. Each of the applicants in the above mentioned O.As
was working as Post Graduate Teacher (in short P.G.T.)
in different schools of Kendriya Vidyalaya Sangathan (in
short K.V.S.). It is submitted that each of them was
appointed as Principal in Kendriya Vidyalaya (in short K.V.)
on the basis of the selection made pursuant to an All India
advertisement on the basis of written examination followed
by interview. The applicant in each case was appointed as
Principal initially on deputation basis. The submission
made by the learned counsel for the applicants is that the
word 'deputation' in the appointment order was a misnomer
as each of the applicants was appointed on regular basis
after following the procedure prescribed for regular
appointment pursuant to the advertisement made on All India
basis. It is also submitted by the learned counsel for the
applicants that the impugned orders of termination have

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been passed on the dictates of the higher authority i.e. Chairman, K.V.S. and, therefore, the impugned termination orders in all the aforesaid O.As are liable to be quashed and set-aside.

4. The respondents, on the other hand, have submitted that in the advertisement itself, it was made clear that the appointment was to be made on deputation basis and in the appointment letter also, it was clearly mentioned that the appointment would be on deputation basis.

5. It is not disputed that the similar order of termination was the subject matter of challenge before the Principal Bench of this Tribunal in O.A. No.2801 of 2004 between Mrs. Radha G. Krishan & 19 others Vs. Kendriya Vidyalaya Sangathan through the Commissioner, Kendriya Vidyalaya Sangathan and others. The Principal Bench by its judgment and order dated 21.12.2004 set-aside the order of termination on the ground that the termination order was issued at the behest of the superior authority namely Chairman, K.V.S., whereas the power vested with the Commissioner. It is also not disputed by the counsel for the respondents that the orders impugned herein in the aforesaid O.As were also issued on the dictates of the Chairman, K.V.S. and, therefore, these orders are liable to be quashed and set-aside in view of what has been held by the Principal Bench in the case referred to hereinabove. The law is well settled that the power vested with an authority ought to be exercised by the authority independently and if the power has been exercised on the dictates of the superior authority then the exercise of power would be bad in law and the order passed would be liable to be quashed. On that basis, the orders impugned herein are, therefore, liable to be quashed and set-aside.

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6. The learned counsel for the applicants have also contended that the appointments of the applicants as Principal, K.V., were infact in the nature of regular appointment and they were wrongly described as on deputation. On the other hand, the respondents have submitted that the appointments of the applicants other than the applicants in O.A. Nos. 1435, 1459 and 1460 of 2004 were made on deputation basis, while the applicants in OAs 1435/04, 1459/04 and 1460/04 were initially appointed on deputation but subsequently they were regularised on the post of Principal which according to the respondents, was not in accordance with the rules and instructions on the subject. The respondents' counsel placed reliance on the observations made by the Principal Bench in Para 16 of the judgment, wherein the Principle that deputation can be put to an end at any time has been reiterated by the Principal Bench. There is no quarrel with the said proposition of law. But in our view, the question whether the appointment in the fact situation of the case could be said to be on deputation basis or regular appointment, was neither considered nor decided by the Principal Bench of the Tribunal. It is, therefore, to the Competent Authority to go into that question while taking the decision afresh in the light of the directions given by the Principal Bench in O.A. No. 2801/2004 independently of the directions issued by the Chairman, K.V.S.

7. In view of the foregoing discussions, all the O.A. succeed and are allowed. The impugned order in each case is quashed and set-aside. All the applicants are entitled to the consequential benefits. However, the respondents are given liberty to take such action as may be deemed appropriate, in accordance with law after taking into reckoning the contentions of the parties and the issue

(Signature)

raised by them including the one regarding the nature of appointment. No costs.

8. Copy of this order be placed in all the connected O.A.S.

Sgt
A.M.

Sgt
V.C.

Prepared by
A.M.
3/17/08