

(15)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 03rd day of OCTOBER 2007

Original Application No. 769 of 2005

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Smt. Pushpa Singh, W/o Sri Vijay Singh, Primary Teacher, Kendriya Vidyalaya, AFS Bamrauli, Allahabad R/o H 112-B, Anant Nagar, Dhoomanganj, Allahabad.

. . . .Applicant

By Adv: Sri S. Mandhyan

V E R S U S

1. Union of India through Commissioner, Kendriya Sangathan, 18 Shaheed Jeet Singh Marg, Institutional Area, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Sector-J, Aliganj, Lucknow.
3. Shri Kartar Singh (Retd. Assistant Commissioner) Inquiry Officer, R/o Flat No. B-102, Panchsheel Apartment, Plot No. 4, Sector-4, Dwarika, New Delhi.

. . . .Respondents

By Adv: Sri D.P. Singh

O R D E R

By Hon'ble Mr. Justice Khem Karan, Vice-Chairman


The applicant Smt. Puspa Singh has prayed for the following reliefs:

- "i. issue an order or direction in the nature of certiorari quashing the order dated 27.06.2005
- ii. issue an order or direction in the nature of mandamus commanding the respondents not to give effect the order dated 27.06.2005;
- iii. issue any and further order which this Hon'ble Court may deem fit in the circumstances of the case;

iv. Award cost of the original application from the contesting respondent

2. It transpires from the pleadings on record that while working as Primary Teacher in KVS Organization, the applicant was served with a charge sheet on 12.07.2004 (Annexure A-4). Charge against her was that she obtained a fake B.Ed degree and used the same in obtaining appointment to the post of PRT. She filed her reply on 23.07.2004, denying the charge. While the disciplinary proceedings were so pending an FIR was lodged on 13.01.2005 against the applicant. It is said that allegations made in the FIR, are being investigated by the CBI and the same is pending. The applicant alleges that investigating agency not only interrogated her quiet at length on 21.03.2005, but also obtained all the relevant documents in original. She requested the Disciplinary Authority for keeping the disciplinary proceedings in abeyance on the ground interalia that original documents had been taken by the investigating agency. It is this requested that has been turned down by the impugned memorandum dated 27.06.2005 (Annexure A-1), which the applicant has challenged in this OA.

3. The respondents have filed reply, contesting the claim. They say in para. 31 of their reply that departmental proceedings cannot be stayed or kept in abeyance pending criminal investigation. They also state that before the CBI seized the documents, the

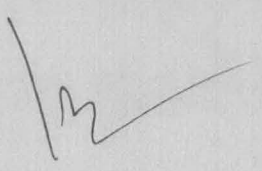


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same were looked into and verified by the Enquiry Officer (EO) in their original form, so the absence of those documents is not going to cause any prejudice to the applicant. In suppl. reply it has been stated that the enquiry has been concluded and reports submitted to the disciplinary authority. It is also said that a show cause notice on the applicant together with the copy of the report and she replied the same.

4. It transpires from the perusal of the interim order dated 14.07.2005 that this Tribunal had restrained the respondents from passing final orders in the enquiry.

5. We have heard Sri S. Mandhyan learned counsel for the applicant and Sri D.P. Singh, learned counsel for the respondents. The sole point for our consideration is as to whether departmental proceedings in question should be kept in abeyance pending the criminal investigation by CBI. Though Sri Mandhyan tried to touch ^{the} merits ~~and demerits~~ of the allegations, but we think we will not be justified ⁱⁿ entering into the correctness or otherwise of the charges, that too at a stage, when the Disciplinary Authority is seized of the matter. It would not be just and expedient to make any observation in regard to the proof ^{on} and disproof of those charges because that is the matter to be

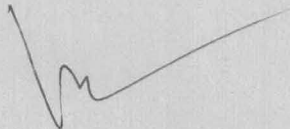


considered by the disciplinary authority and if this occasion arises for appellate Authority.

6. We requested Sri Mandhyan to confine himself to the question as to whether disciplinary proceedings could be stayed or kept in abeyance, on the ground that criminal investigation into the same allegations is going on. Though we have a number of judicial pronouncements on the point as to whether departmental proceedings could be stayed during the pendency criminal trial on the same charges, ~~can go~~, ~~only~~ but we have yet to come across any such judicial pronouncement, ^{where} ~~whose~~ the question - whether departmental proceedings could be stayed during the course of investigation by police - was under considerations. In other words, the question as to whether departmental proceedings should be stayed or kept in abeyance, pending investigation by the police or CBI, perhaps has not been debated by the Hon'ble High Court or the Apex Court. At least ~~no~~⁴

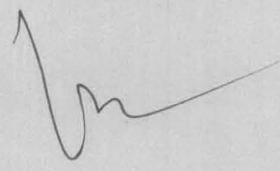
^{such} judicial pronouncement has been brought to our notice. We do not think, formal departmental proceedings, can be stayed or kept in absence, on the said ground, unless of course, the relevant Rules, provide to that effect.

7. The judicial pronouncements including *UOI and others Vs. Ashok Kacker, 1995 suppl (1) SCC 180* lay down that even if departmental proceedings as well



as proceedings in Court, are going on simultaneously, departmental proceedings should be stayed only in exceptional cases as the objects of both these proceedings are different and the standard of proof required in the proceedings is also different.

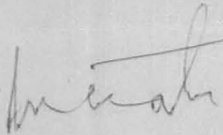
8. Sri Mandhyan argues that since the relevant documents have already been seized ⁴ ~~or~~ by CBI, so the applicant will not be able to defend herself in the departmental proceedings. The respondents have stated that before ⁴ seizing the documents the applicant had inspected the same and had made notes of the same. We ⁴ do not want to dwell upon this issue for the simple reason that it is for the disciplinary authority to see as to whether the applicant has been handicapped in her defence in absence of original documents, so seizure ⁴ ~~are~~ by the police. The matter is still with him and in case the applicant puts the grievance that she could not led her evidence in defence in absence of those documents, the disciplinary authority should look into the same, while taking final view in the matter. ~~But~~ ^{same} seizure of the ~~by~~ ^{by} the CBI, is not a good ground for keeping the formal proceedings in abeyance or for keeping the same pending. We need not reiterate that the nature of the departmental proceedings is quasi-judicial and the authority, enquiring into the matter possesses power to ask any



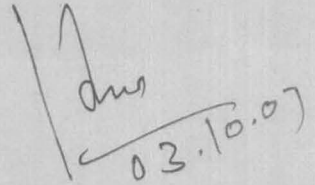
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relevant document from any authority, if the same are necessary for arriving at truth.

9. So in view of what we have stated above, the OA has to be dismissed with the observations made above. It is accordingly dismissed. Stay order passed earlier is vacated. No cost.



Member (A)



Vice-Chairman

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