

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00348/2019
With
Misc. Application No. 040/00019/2020

Date of Order: This, the 3rd day of September 2021

**THE HON'BLE SMT. MANJULA DAS, CHAIRMAN
THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**



Smt. Pranita Das
W/O- Sri Chandramoni Tamuli
TGT, Assamese, J.N.V, Diphu
District – Karbi Anglong Assam
Pin – 782460.

... Applicant

By Advocate(s): Sri G. Baishya, Sri A. Hassan
Smt. B. Bora & Sri S.K. Hazarika

-Versus -

1. The Union of India
Through the Secretary, Government of India
Ministry of Human Resource Development
Department of Education, New Delhi
Pin – 110001.

**O.A. No. 040/348/2019 with
M.A. No. 040/19/2020**

2. The Commissioner
Navodaya Vidyalaya Samity
Institutional Area, Sector-62, Noida
Uttar Pradesh – 201307.
3. The Deputy Commissioner
Navodaya Vidyalaya Samity
Regional Office, Temple Road
Barik Point, Lachumiere
Shillong – 793001.
4. The Assistant Commissioner (Admn)
Navodaya Vidyalaya Samity
Institutional Area, Sector-62, Noida
Uttar Pradesh – 201307.
5. The Principal
J.N.V. Diphu
District – Karbi Anglong, Assam
Pin – 782460.



...Respondents.

By Advocate(s): Smt. R.S. Choudhury and
Ms. A. Ingsu

Date of Hearing: 11.08.2021 Date of Order: 03.08.2021

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

ORDER**NEKKHOMANG NEIHSIAL, MEMBER (A):-**

This O.A. has been filed by Sri G. Baishya, learned counsel on behalf of the applicant asking for the following reliefs with interim prayer:-



"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. F.14/ Comp /NVS (SHR) /PD/ 4142 dated 23.10.2019 issued by the Assistant Commissioner (Admn), Navodaya Vidyalaya Samiti, Regional Office, Shillong by which the prayer of the applicant for free and fair inquiry without the influence of the Principal of the Vidyalaya has not been considered by the authority.

8.2 That the Hon'ble Tribunal be pleased to direct the respondent authorities to transfer or attach or accommodate the Principal i.e. the respondent No.5 to any other JNV during the disciplinary proceeding initiated against the applicant for the ends of fair inquiry and justice.

8.3 Cost of the application.

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.''

2. On the basis of the materials placed before the court, this Tribunal vide order dated 01.11.2019 granted stay by directing the respondents not to proceed with the disciplinary proceeding which was supposed to be held on 06.11.2019. Subsequently, the respondent authorities filed their written statement on 10.02.2020. In the meantime, they have also filed one M.A. No. 040/00019/2020 on 18.02.2020 for vacating the interim order dated 01.11.2019. The M.A. along with the O.A. was finally heard on 09.03.2021. However, due to imposition of lockdown on account of second wave of Covid-19 pandemic, adjudication/order could not be pronounced. The



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

case was released again on 11.08.2021 and reserved for orders on the same day.

3. Facts of the case were that the applicant has been working as TGT (Assamese) in JNV, Diphu, Karbi Anglong, Assam since 1997. A Memorandum of charge sheet was issued to the applicant by the respondent authorities on 01/05.04.2019 for misbehaviour/misconduct as contained in the two Articles. In this O.A., applicant alleged that since there is allegation against the Principal, J.N.V., Diphu, Karbi Anglong, respondent No. 5 on the ground of sexual harassment, the proposed departmental enquiry to be conducted against the applicant would be prejudiced as the Principal would be able to influence the listed witnesses in the Memorandum



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

of charge. As consequent of repeatedly physical assault on the applicant, she lodged an FIR against the Principal on 12.03.2019 before the Officer In-Charge, Diphu Police Station which was registered as Diphu PS Case No. 4/2019 under Section 354, 506 and 427 of IPC. As such, proposed departmental enquiry against the applicant would be influenced by Principal against the applicant. As such, the directions dated 23.10.2019 issued by the Assistant Commissioner (Admn), NVS, Regional Office, Shillong should be set aside and quashed.



4. The respondent authorities in their written statement stated that the applicant Smt. Pranita Das along with husband namely Sri Chandramoni Tamuli, PGT (English) have been accommodated in JNV,

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

Diphu, Karbi Anglong on spouse ground in terms of the transfer policy of the Samiti. The applicant has exhibited negligence of duties and disobedience against her higher authority. She had been served with an advisory note by Dr. D.S. Kumar, the then Deputy Commissioner, NVS, RO Shillong vide letter dated 19.12.2015. She was also charge sheeted in the year 2016. The applicant is habituated in creating problems in the Vidyalaya by arguing with the higher authorities unnecessarily, using unparliamentarily language and often indulging in negligence of duties and refusal of office duties assigned to her, for which several complaints made and warnings were issued to her. They further stated that the applicant misbehaved repeatedly with respondent No. 5 by



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

hurling abusive words, shouting arrogantly and threatening of life to respondent No. 5.

5. The respondents also stated that on 11.03.2019, the applicant was caught red handed by the respondent No. 5 in the examination cell in presence of the other teachers while copying papers of Class VI pertaining to the Assamese Subject. Because of vitiated atmosphere created by the applicant along with her husband, the students were instigated and misguided against the Principal. They also brought out that the Committee constituted to enquire into the complaints against the Principal i.e. Sri Rajinder Kumar, respondent No. 5 by the applicant have concluded that the complainant i.e. the applicant is habituated of creating disturbances by



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

levelling false allegations against the authority. She asked to take the advantage of being a lady and used to refuse duty showing family problems thereby creating unfair atmosphere in the Vidyalaya. The Committee also strongly recommended immediate transfer of the applicant along with her husband as they have already completed 15 years of regular service and 7 years on contractual basis at JNV, Karbi Anglong. The respondents further contended that the Inquiry Officer and Presenting Officer would take up the enquiry proceedings against the applicant without any possibility of favouritism or influence from any party. Accordingly, the applicant is not entitled to any relief as prayed for in the O.A. and the instant O.A. deserves to be dismissed.



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

6. In the M.A. No. 040/00019/2020, the respondent authorities submitted the same line of arguments and prayed for vacating of the interim order dated 01.11.2019 so as to enable them to proceed with disciplinary proceedings initiated against the applicant.



7. We have carefully gone through the submissions, arguments and materials placed before us. It is observed that indeed an FIR was filed by the applicant against the respondent No. 5 on 12.03.2019. It is seen that there is also another FIR dated 12.04.2019 of the applicant against the respondent No. 5. It is also seen that an FIR was lodged by the respondent No. 5 Sri Rajinder Kumar

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

against the applicant and her husband on 13.04.2019.

8. It is observed from the above that there is indeed an atmosphere of personal animosity between the applicant and respondent No. 5 i.e. Principal, whatever the original cause or reason might have been. It is indeed unfortunate that the two parties particularly working in the educational institution in the responsible position of being a teacher and principal should have gone to the extent of filing FIR against each other. In this context, it is also equally understandable that the said departmental disciplinary proceeding against the applicant could be adversely influenced by the principal as apprehended by the applicant. But it is



O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

equally important that certain decree of discipline has to be maintained between the junior and the senior in the department for its smooth functioning. On going through the documents submitted by both the parties, we are absolutely convinced that the superior authorities are definitely entitled to enforce discipline in the functioning of the institute including initiation of disciplinary proceeding.



9. Keeping in view of the above and after careful considerations, we are of the view that the respondent authorities should be allowed to go ahead with the disciplinary proceedings as per law. Accordingly, O.A. is partially allowed with the following directions:-

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020

- (i) Interim order dated 01.11.2019 passed by this Tribunal is hereby vacated;
- (ii) Accordingly, M.A. No.040/00019/ 2020 stands allowed;
- (iii) Respondent authorities are at liberty to go ahead with the disciplinary proceedings. However, they are directed to complete the disciplinary proceedings within a period of 06 months from the date of receipt a copy of this order;
- (iv) They are also further directed to attach the private respondent No. 5 i.e. Principal, JNV, Diphu, Karbi Anglong, Assam in another suitable place for a period of six months keeping in view of the apprehension of the applicant;
- (v) The applicant shall give full co-operation to the departmental enquiry proceedings to be held by the respondent authorities.



10. The O.A. is disposed of as above. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
CHAIRMAN

PB

O.A. No. 040/348/2019 with
M.A. No. 040/19/2020