

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Civil Modification Application No.2172 of 2002

In

Original Application No. 952 of 1999

(Decided on 31.08.2001)

_____ day this the 2 day of Aug 2007

Hon'ble Mr. Justice Khem Karan, V.C.

Hon'ble Mr. K.S. Menon, Member (A)

Sh. Dushyant Singh S/o Sh. Gaya Ram Singh (TGT (English)
Teacher in Jawahar Navodaya Vidyalaya, Madiyahu, Jaunpur, R/o
of Village & Post Office Koiana District Mirzapur.

Applicant

By Inperson

Versus

1. Union of India, through Secretary, Ministry of Human Resources & Development, Government of India, New Delhi.
2. Deputy Director, Navodaya Vidyalaya Samiti (Lucknow Region) 10, Sector "C" Aliganj City & District Lucknow.
3. Principal, Jawahar Navodaya Vidyalaya, Madiyahu, District Jaunpur.
4. Sub Divisional Magistrate (SDM) Madiyahu, District Jaunpur.
5. Sh. T.S. Dasila, Principal, Jawahar Navodaya Vidyalaya, Madiyahu, District Jaunpur.

Respondents

By Advocate Sri N.P. Singh

ORDER

By K.S. Menon, Member (A)

The O.A. No. 952 of 1999 Dushyant Singh Vs. Union of India and others was finally disposed of by a Division Bench of this Tribunal on 31.08.2001. The Tribunal issued the following directions to the respondents: -

- (i) The suspension of the applicant is required to be reviewed and if it is continued, the subsistence

g/lee

allowance be increased to the maximum limit permissible.

- (ii) Pay advance for Transfer Grants to the applicant for shifting his residence.
- (iii) Allot an accommodation at JNV, Sidharthnagar before the applicant is made to shift from Madiyahu.
- (iv) Require an Enquiry Officer and the disciplinary authority to complete the proceedings within a period of four months from the date of communication of this order.

2. It appears after few months, applicant moved one Misc. Application No. 2172 of 2002, purporting to be under Rule 24 of Central Administrative Tribunal (Procedure) Rules, 1987 for modification of the said Order dated 31.08.2001, to the extent of quashing of suspension order dated 15.02.1999 on the ground that respondents could not complete the disciplinary proceedings within the time allowed vide Order dated 31.08.2001. It transpires from perusal of the record that after hearing the parties' counsel, the Bench passed an Order on 27.08.2002, directing the respondents to revoke the suspension order, to allow the applicant to join the duties. It further directed the respondents to file their reply as to why the inquiry proceedings could not be completed so far. There is no dispute in compliance of these directions dated 27.08.2002, the respondents revoked the suspension order vide their order dated 25.09.2002 and allowed him to join and work in Jawahar Navodaya Vidyalaya, Madiyahu, vide their Order dated 27.09.2002.

3. As the disciplinary proceedings were still pending, so applicant gave another Misc. Application No.4373 of 2002 on 31.10.2002, praying for restraining the respondents from conducting the disciplinary proceedings and for quashing the charge sheet dated 30.09.99/11.10.99, mainly on the ground that the respondents could not complete the inquiry within the time prescribed by this Tribunal in its Order dated 31.08.2001. It appears from the material placed on record that the Inquiry Officer completed the inquiry in the end of April 2003 and submitted his report dated 28.04.2003. Before any final decision could be taken, this Tribunal passed one Order on 05.05.2003,

restraining the respondents from passing any final order on the basis of charge sheet dated 09.11.1999. Since then, the disciplinary proceedings are pending at the same stage, as per the Written Submission filed by Sri N.P. Singh. It appears that vide Order dated 14.03.2005 the applicant was kept under suspension on account of disciplinary proceedings. He challenged that order by filing O.A. No. 639 of 2005, which this Tribunal allowed vide Order dated 09.11.2005. It would be useful to reproduce the last paragraph of the said Order dated 09.11.2005: -

"We have considered the entire case. Admittedly, on 14.03.2005, no proceedings were pending, which was warranted suspension order. The fact that on that date no proceedings were pending goes in favour of the applicant and the order of suspension is, therefore, held as illegal and accordingly the same is quashed and set aside. The applicant is entitled to full pay and allowances for the period from 14.03.2005 onwards. No costs.


4. The applicant has placed on record his Written Submissions, wherein he has prayed that prayer made in Modification Application 2172 of 2002 and Rejoinder Affidavit may be granted with all consequential benefits together with interest on arrears of pay held up by the respondents and to stop the abuse of justice under Rule 24 of Central Administrative Tribunal (Procedure) Rules, 1987 by restoring the Contempt Petition No. 88 of 2005.

5. We fail to understand as to how the matter finally decided on 31.08.2001 has been kept alive on the basis of Misc. Application No. 2172 of 2002 and Misc. Application No. 4373 of 2002. The applicant appears to be a little confused. He wants that disciplinary proceedings should not be taken to its logical end and for that he wants to utilize Rule 24 of Rules of 1987. After the suspension order was revoked and the applicant was reinstated, the entire matter raised in this O.A. through Modification Applications should have come to an end. Whether conducting of disciplinary proceedings or the report of the Inquiry Officer can be said to be bad for one reason or the other or for the

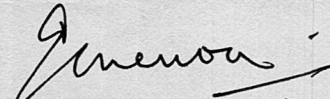
reasons that the inquiry has not been completed within the period prescribed by Order dated 31.08.2001, cannot be subject matter of proceedings under Rule 24 of Central Administrative Tribunal (Procedure) Rules of 1987. What surprising is, that the Tribunal stayed the finalization of disciplinary proceedings vide its interim order dated 05.05.2003. Taking benefit of this interim order, the applicant has been successful in dragging the matter here in a decided case. This is a matter where no legal arguments are required nor any judicial pronouncements are to be cited in the context of legality or illegality of the disciplinary proceedings or the inquiry report as in our view, same cannot be looked into here under Rule 24 of Central Administrative Tribunal (Procedure) Rules of 1987 or under Section 151 of Civil Procedure Code. Justice demands that the respondents should be allowed to pass final order in the matter. In case the applicant becomes aggrieved of any such final order to be passed in the disciplinary proceedings, he will be free to seek remedy before the appropriate authority or forum but there appears to be no sense in keeping the matter pending on the basis of the said Modification Applications.

6. We have not been able to appreciate as to how the applicant has made prayers in his Written Argument. Perhaps he has done, so for the reasons that he was not having the assistance of a legal expert. He chose to prepare this Written Argument himself without express assistance of any Advocate. We cannot take note of such prayer made in the Written Arguments. We have also not been able to understand as to how he can make a prayer for reviving the contempt proceedings.

7. In view of what we have said above, both the Misc. Applications No. 2172 of 2002 and 4373 of 2002 stand disposed of. The interim order dated 05.05.2003 staying the disciplinary proceedings is vacated and the respondents are expected to take the pending disciplinary proceedings to its logical end as expeditiously as possible. In case, the applicant becomes aggrieved of any order to be passed by the respondents in those



proceedings, he will be free to seek appropriate remedy before the Competent Authority or other forum. Misc. Applications mentioned above stand disposed of. No order as to costs.


Member (A)


Vice Chairman

/M.M./