

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 311 of 2000

Allahabad this the 19th day of December, 2001

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, A.M.

Smt. Manju Tomar wife of Shri M.P. Singh Tomar,
resident of H.No.37 A/220 C, Bundu Katra, Agra-
282001(U.P.).

Applicant

By Advocate Shri P.C. Jain

Versus

1. Union of India through Secretary, Ministry of Human Resource Development, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
3. Deputy Commissioner(Adm.) Kendriya Vidyalaya Sangathan, New Delhi.
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, G.C.F. Estate, Jabalpur(M.P.).
5. The Principal, Kendriya Vidyalaya, N.T.P.C., Jamnipali, Korba(M.P.).

Respondents


By Advocate Shri N.P. Singh

O_R_D_E_R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this application under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order dated 13/14-12-1999 by which her services have been terminated before expiry of the period of probation on the basis of clause-5

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of the appointment order dated 16.12.1997. Clause 5 of the appointment order reads as under:-


"During the probation and thereafter, until he/she is confirmed the services of the appointee are terminable by one month's notice on either side without any reason being assigned, therefor. The Appointing Authority, however, reserves the right to terminate the services of the appointee before expiry of the stipulated period of notice by making payment of sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

2. Learned counsel for the applicant has submitted that alongwith the impugned order of termination, though it asserts to have been passed under Clause 5, no money was paid to the applicant alongwith the order. Thus, the termination is illegal and cannot be sustained. Learned counsel, for this submission, has placed reliance on Judgment of Hon'ble Supreme Court in the case of 'Management of M.C.D. Vs. Prem Chandra Gupta and another 2000 (1) U.P.L.B.E.C. 280 (S.C.)'. Learned counsel for the applicant has also submitted that the impugned order has been passed by way of punishment as the applicant could not join the service on account of her illness and no opportunity was given to the applicant to show-cause, hence order cannot be sustained.


3. Shri N.P. Singh, learned counsel for the respondents on the other hand submitted that this O.A. is not legally maintainable as the applicant has right of appeal before the Deputy Commissioner (Admn.) Kendriya Vidyalaya Sangathan, New Delhi, which ^{he} had not availed. In para-14 of the R.A.,

though it is not denied that ~~the~~ right of appeal is there, it has been stated that the applicant has filed a representation which has not yet been decided.

4. Considering the facts and circumstances of the case and the nature of dispute, in our opinion, the ends of justice shall be better served if the applicant is given time to file an appeal and same may be directed to be decided in accordance with law. The O.A. is accordingly disposed of finally with the liberty to the applicant to file an appeal against the impugned order dated 13/14-12-1999(annexure A-1) within a period of 3 weeks, which shall be considered and decided by the respondent no.3 within three months thereafter on merits, treating the same to have been filed within time. There will be no order as to cost.



Member (A)



Vice Chairman

/M.M./