

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.596 OF 2002
ALLAHABAD THIS THE 8TH DAY OF DECEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Smt. Manju Tomar,
W/o Shri M.P. Singh, Tomar,
R/o House No.37 A/220 C, Bundu
Katra, Agra (U.P.)

..... .Applicant

(By Advocate Sri S. Mandhyan)

Versus

1. Union of India,
through Secretary,
Ministry of Human Resources Development,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
New Delhi.
3. Deputy Commissioner (Admn.),
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.)

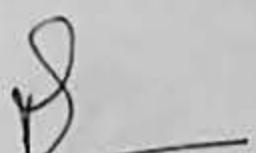
..... . Respondents

(By Advocate Sri N.P. Singh)

- O R D E R -

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has sought the following
reliefs:-



" (a) to quash the order dated 13/14.12.1999 whereby her services have been terminated and order dated 05.04.2002 whereby her appeal has been rejected.

(b) to direct the respondents to reinstate her as Physical Education Teacher at Kendriya Vidyalaya, N.T.P.C., Korba (M.P.) with all consequential benefits."

2. It is submitted by applicant that she was appointed as Physical Education Teacher vide memorandum dated 16.12.1997 (Page 26). She carried out the assignment given to her successfully as a result of which five of her students were selected at National level.

3. She had proceeded to her home town during pooja holidays i.e. 17.10.1999 to 27.10.1999 where she fell sick so sent her medical for 15 days from 28.10.1999. She thereafter had allergy so Doctor advised her bed rest for another 15 days upto 25.11.1999. Even this medical certificate dated 13.11.1999 was sent to the Principal yet the Principal sent her letter dated 17.11.1999 calling upon her to join the duties immediately. She couldn't join because Doctor has given her further rest of 15 days on 26.11.1999. She simultaneously informed about her illness and inability to report immediately. She was serious, therefore, had to send application for leave from time to time.

4. She was arbitrarily terminated vide order dated 13/14.12.1999 without giving her any show cause notice or holding any inquiry thus, violating principles of natural justice. Moreover, termination order did not accompany payment of salary as was required by clause 5 of appointment letter, therefore, this order is bad in law. Being aggrieved she filed a detailed representation



to respondent no.4 but no reply was received. She, therefore, filed O.A. No.311/00 which was disposed off on 19.12.2001 by directing the applicant to file appeal to the Deputy Director (Admin) within three weeks to be decided within three months thereafter. She filed the same but appeal was rejected without looking into the facts on 03.04.2002, therefore, O.A. may be allowed.

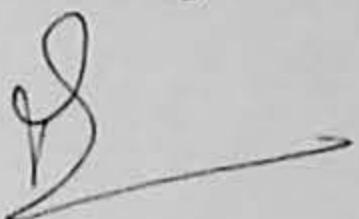
5. Respondents on the other hand have taken a preliminary objection to the maintainability of O.A. on the ground the orders of termination has been passed by the Assistant Commissioner, Regional Office Jabalpur (M.P.) which comes under the jurisdiction of Central Administrative Tribunal Additional Bench, Jabalpur. It is also relevant to mention here that the applicant was serving at N.T.P.C., Korba which also comes under the jurisdiction of Central Administrative Tribunal Additional Bench, Jabalpur (M.P.). Therefore, on the ground of jurisdiction the present original application is not maintainable. On merits they have submitted that the applicant during the period of probation out of 705 working days attended the Vidyalaya only for the period of 66 days only. An employee who is so negligent and careless even during the period of probation cannot be expected to discharge the duties entrusted to her by any stretch of imagination. Therefore, her services were terminated during the probation period as per provisions contained in para 5 of the appointment order. The question of issue of charge sheet and holding enquiry as per provisions contained in CCA/CCS Rules is applicable only to permanent/confirmed employee. The applicant failed to perform her duty properly during the probation period and her attendance in Vidyalaya during the probation period is below 8%. In nut shell they have submitted that applicant's



services have been terminated due to non satisfactory performance of the applicant in respect of attendance. Such employees do not serve the cause of organisation and for the children studying in Kendriya Vidyalaya. The leave Rules provides that the leave should be submitted and only when the leave is sanctioned by the competent leave sanctioning authority the employee can proceed on leave. Merely submitting the leave application will not serve the purpose and same are not according to the Rules. They have thus, prayed the O.A. may be dismissed.

6. I have heard the counsel and perused the pleadings as well. The preliminary objection taken by respondents is rejected because once she was terminated she could always file the O.A. at the place of her residence. Since she was resident of Agra she could file the O.A. at Allahabad.

7. On merits, the object of appointing Physical Education Teacher or for that matter any other teacher in a school is to impart education to the students and to enhance the name of school by showing better performance. If a teacher absents continuously for such a long time during her probation period itself naturally the authorities have a right to assess the said teacher and to come to the conclusion, whether she is fit to be retained or her services can be dispensed with. In the instant case, we have seen out of two years period, applicant attended the school only on 67 days meaning thereby that on rest of the days students did not have any teacher for their physical education thus, it defeats the very purpose of appointing a teacher.



8. It is submitted by applicant that a normal enquiry should have been held but since applicant was still on probation and was not even confirmed, her services could always be terminated on ^{assessment of her} overall performance of the employee. Her termination is not by way of punishment but because she was not likely to make a good teacher, therefore, it was not necessary to hold an enquiry.

9. Applicant has next contended that she had carried out the assignment given to her successfully but that was because children must have practised throughout the year but thereafter she absented herself for such a long time inspite of being told to join the duties so naturally the authorities feel it was no point in confirming such an employee who does not even attend the school regularly even during probation period. B

10. In these circumstances if respondents terminated her services on overall unsatisfactory record, the order cannot be termed as illegal. O.A is accordingly dismissed with no order of costs.

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Member-J

/ns/