

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 06th day of OCTOBER 2004.

Original Application no. 607 of 2002.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Member-A

Anil Kumar Gupta,
S/o Late S.S. Lal,
R/o E-1067, Rajendra Nagar,
P.O. Izatnagar, Bareilly.

... Applicant

By Adv : Sri K. Ajit

V E R S U S

1. Union of India through Secretary, Human Resource Department, New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan, Headquarters, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. Assistant Commissioner (Administration), Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Dehradun.
5. The Principal, Kendriya Vidyalaya, N.E.R. Bareilly.

... Respondents

By Adv : Sri N.P. Singh

O R D E R

Justice S.R. Singh, VC.

Heard Sri K. Ajit, learned counsel for the applicant
and Sri N.P. Singh, learned counsel for the respondents.

We have also perused the pleadings and the documents

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annexed thereto including the impugned order.

2. The applicant, a Post Graduate Teacher (PGT) (Maths) was initially appointed as Trained Graduate Teacher (TGT) (Maths) in Kendriya Vidyalaya. It appears that vide order dated 20.05.1997 the applicant ^{was} for the first time offered PGT post on transfer from Bareilly to Dehradun, but prior to that he was placed under suspension vide order dated 05.02.1997 and due to that reason the order dated 20.5.97 could not be given effect to. The applicant was reinstated w.e.f. 11.8.97 and, thereafter, he was transferred vide order dated 24.6.99 to Kendriya Vidyalaya Teju (Arunachal Pradesh). However, the aforestated transfer order was modified by order dated 01.09.1999, by which the applicant was transferred to Lokhera (Assam). The legality of the said transfer order was challenged by the applicant in O.A. no. 758 of 1999, in which ^{an} order was passed on 19.07.1999 directing the respondents to decide the applicant's representation. The respondents there upon modified the transfer order and promoted the applicant vide order dated 29.9.1999 and transferred him to Rangapahar (Assam). It appears that the applicant could not get the Transfer Allowance (TA) within time and, therefore, in modification of the aforestated order, the Competent Authority passed order dated 28.06.1990 thereby directing the applicant to join at Kendriya Vidyalaya (KV) Rangapahar as PGT (Maths) latest by 09.07.2001 on the basis of LPC and relieving order already issued by the Principal KV Bareilly "failing which whole period i.e. from 29.06.1999 till date will be treated as unauthorised absence and order regarding confirmation of loss of lien on the post held by him under Article 81 (d) will be issued to him and no

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further correspondence will be entertained in this regard."

3. The applicant gave his joining report pursuant to the aforestated order on 7.7.2001, but Principal of the said college reported that the post of PGT (Maths) was not lying vacant and accordingly, the applicant was permitted to meet the Assistant Commissioner Kendriya Vidyalaya Sangathan Selchar on 09.07.2001. The order aforestated came to be modified on 23.08.2001 and, thereby the applicant was transferred to KV, Dumduma (Assam) and pursuant to the order the applicant joined his duties at KV, Dumduma on 17.10.2001. Subsequently, the applicant was transferred to KV Agarthala on 10.04.2002 where he is working presently.

4. The applicant filed OA no.1118 of 2001 for redressal of his grievances regarding non payment of salary from 29.06.1999, TA advance to join new place of posting, non issuance of LPC and the relieving order. The Tribunal directed the respondents to consider and pass appropriate order on the representation of the applicant dated 28.08.2001 within a period of one months from the date of communication of this order. Acting upon the said decision the respondents have passed the impugned order dated 26/27.11.2001, which is the subject matter of impugment of this O.A.

5. In this O.A. the applicant seeks the following reliefs :-

"i. The Hon'ble Tribunal may be pleased to quash the impugned order dated 27.11.2001 (vide annexure No. 1 to the complilation-I) passed by the respondent no. 2.



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- ii. The Hon'ble Tribunal may be further pleased to direct the respondents No. 5 to make payment of salary to the applicant between 29.06.1999 and 16.10.01 with due interest thereon @ 12% per annum.
- iii. The Hon'ble Tribunal may further be pleased to direct the respondent no. 5 to issue L.P.C. (Last Pay Certificate) and relieving order to the applicant for K.V. Doomduma, Assam in date of 11.10.2001.
- iv. The Hon'ble Tribunal may further be pleased to treat the employee as TGT (Maths) of K.V. NER, Bareilly between 29.06.1999 and 16.10.2001 and he may be paid arrears of salary ^{and} due interest in the said grade."

During the Course of arguments, the applicant's counsel confined his argument only in relation to reliefs no. 2 and 3 with regard to arrears of salary from 29.6.1999 with due interest @ 12% pa and for issuance of LPC and relieving order for KV Dumduma (Assam). A perusal of impugned order would indicate that ^{he} only reason given for non payment of arrears of salary from 29.06.1999 is that the applicant did not work during the said period and, therefore, in accordance with the well settled principle of "NO WORK NO PAY", the applicant is not entitled to any salary. The reason given by the Commissioner KV in the impugned order for non payment of salary ~~for the relevant period~~ ^{he} cannot ^{be} sustained in the absence of finding as to whether the applicant was precluded from discharging his duties during the relevant period due to any lapse on the part of the respondents or it was because of his own fault that he did not do any work during the said period. A perusal of the order dated 28.06.2001 would indicate that the applicant was required to join his duties latest by 09.07.2001 failing which the whole period from 29.06.1999 till date were to be treated as unauthorised absence, as stated supra. The applicant gave his joining report at KV Ramgapahar well within time allowed by order

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dated 28.06.2001 but for the reasons beyond his control he was not permitted to join his duties for want of vacancy at KV Ramgapahar. Thereafter, the orders were modified, as already stated herein above, and ultimately the applicant joined at appropriate college at 17.10.2001.

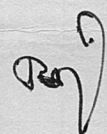
6. In the circumstances, therefore, we are of the view that the applicant cannot be deprived of the salary for the period from 29.06.1999 till 16.10.2001.

7. So far as the applicant's grievance regarding issuance of LPC and relieving order for KV Dumduma (Assam) is concern, suffice to say that when the applicant was transferred to KV Dumduma he was entitled for issuance of LPC and relieving order from KV, NER Bareilly. It is

8. Accordingly, the OA succeeds and is allowed with the direction to the respondents to pay arrears of salary to the applicant from 29.06.1999 to 16.10.2001 and issue LPC and relieving order from KV, NER, Bareilly to KV Dumduma within a period of two months from the date of communication of this order.

9. There shall be no order as to costs.


Member-A


Vice-Chairman

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