

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 1584 of 2003

This the 22nd day of January, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Smt. Nisha Tripathi, aged about 42 years,
W/o Shri Arun Kumar Tripathi,
Resident of 4 Block A, Shyam Nagar,
Kanpur 208013 (UP).

.....Applicant

By Advocate :- Shri R. Sinha and Shri K.C. Sinha

Versus

1. Union of India through Secretary, Ministry of Human Resources, & Development, Department of Madhyamic & Uchchatar Shiksha Vibhag, Shastri Bhawan, New Delhi 110001.
2. Commissioner, Kendriya Vidyalaya Sangathan, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Ahmedabad Region, Gyandeep, Kendriya Vidyalaya Campus, Sector -30, Gandhi Nagar (Gujrat).
4. Principal, Kendriya Vidyalaya, Air Force, Naliya, District Bhuj, Gujarat.

.....Respondents.

By Advocate :- Shri N.P. Singh

O R D E R

By Hon'ble Mrs. Meera Chhibber, Member(J)

By this O.A. applicant has challenged the order dated 31.3.2003 (page 24) whereby she was transferred from Baroda No. III Makarpura (AFS) to Naliya (AFS) Bhuj in public interest. She has further sought a direction for quashing of the order dated 04.11.2003 (page 26) whereby the Assistant Commissioner has passed the following order:-

...pg2/-

"Now, therefore, the undersigned hereby confirmed the order of provisional loss of lien on the post of P.R.T issued to Smt. Nisha Tripathi vide this office order of even number dated 10.9.2003 and she is deemed to have been removed from the K.V.S. services with effect from 08.04.2003. No further correspondence in this regard will be entertained."

The applicant has also sought a direction to respondent no.3 to permit him to continue as a P.R.T. teacher at Makerpura, Baroda.

2. Learned counsel for the respondents has taken two preliminary objections to the maintainability of the O.A. itself. F^(d)It is bad for non-joinder of necessary parties as Joint Commissioner, K.V.S. Headquarters, New Delhi has not been impleaded as a party, even though he is the necessary party, he has next contended that applicant was removed by order dated 04.11.2003 and applicant has filed her appeal which is annexed with this O.A. at page 18 on 09.11.2003 as per her own showing. Therefore, this O.A. is premature at this stage as the appeal has not yet been decided. He has further submitted that against the order passed by the Assistant Commissioner, the appellate authority is Joint Commissioner(Administration) K.V.S. Headquarters, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi-110016 whereas applicant has sent an appeal to the Commissioner who is the highest authority of K.V.S. Therefore, applicant may be directed to file a proper appeal to the appropriate authority.

3. I have heard both the counsel on the question of preliminary objections and am satisfied that since the order of removal is appealable to the next higher authority and next higher authority as stated by the respondents' counsel is Joint Commissioner(Administration) the appeal should have been addressed to the proper authority. The applicant has shown that this appeal was sent through registered A.D. Since she had sent

the appeal to the wrong authority, the applicant is now given liberty to file appeal to the appropriate authority namely Joint Commissioner(Administration) K. V.S. Headquarters within two weeks from the date of receipt of a copy of this order and in case, she files such an appeal, the same shall be decided by the Appellate Authority without going into the question of limitation by deciding on merits of the case and by passing a detailed and reasoned order thereon within a period of one month from the date of receipt of such appeal.

4. With the above direction this O.A. is disposed of at the admission stage itself without going into the merits of the case.

5. There will be no order as to costs.



Member J

Brijesh/-