

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

ALLAHABAD

REVIEW APPLICATION NUMBER 14 OF 2003

IN

ORIGINAL APPLICATION NUMBER 322 OF 2002

ALLAHABAD THIS THE 18TH DAY OF JULY, 2003

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

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheedjot Singh Marg,
New Delhi & others.

...Applicants/
Respondents

(By Advocate : Shri D.P. Singh)

V E R S U S

Vidya Vishal Sharma, son of Shri
Ram Gopal Sharma,
r/o 61/32 Hoolganj,
Kanpur Nagar.

...Respondents/
Applicants

(By Advocate : Shri S. Mandhyan)

O R D E R

This Review Application has been filed by the
respondents against the order dated 31.01.2003 in O.A. No.
322 of 2002.

2. I have heard both the counsel and perused the pleadings
as well.

3. The only ground taken by the respondents in their
review application is that respondents had been sanctioning
the post of TGT Maths only right from 1990 onwards and
there was no post sanctioned as TGT PCM. Therefore, the applicant

was rightly transferred from Chakeri on being declared surplus as TGT (Maths). In support of their claim they have enclosed one document as Annexure A-2 which shows that when applicant was relieved after his transfer from Manauri to Chakeri, he was relieved as TGT(Math)(Pg.19). It was only looking at this document which was annexed as Annexure A-2 with the review application that I had issued notice to the ~~original~~ applicant. However, original applicant has invited my attention to various documents on record to show that even at Manauri he was working as TGT (PCM) and not as TGT(Math), which is evident from the certificate given by Principal Manauri School which categorically states that Shri V.V. Sharma is working in Kendriya Vidyalaya at Manauri, Allahabad station as TGT(PCM) (Post) since 09.01.1990 (Pg.63). This certificate is duly stamped and signed by the principal of the school. Similarly at page 69 statement furnished by the Principal/Commissioner as on 13.07.1992 shows that applicant was working as TGT (PCM) at Manauri. Apart from it applicant has invited my attention to page 56 of the Counter Affidavit which is the list of teachers in KV No.2AFS Chakeri, Kanpur and even in this list teachers are categorised as TGT (PCM). If the contention of the review applicant was correct that they had sanctioned only the post of TGT(Math), they would not have shown the teachers who were working as TGT(PCM) in the school at Chakeri. It should have been referred to as TGT(Maths). Not only this, applicant has produced as many as 4 school diaries ranging from the years 1999 to 2003 of different schools namely Air Force Station, Chakeri, Kanpur

for the year 2002-2003; Kendriya Vidyalaya No.2, Air Force Station, Chakeri, Kanpur for the year 2001-2002; Kendriya Vidyalaya O.N.G.C. Sivasagar, Assam for the year 2000-2001 and Kendriya Vidyalaya O.N.G.C. Sibsagar, Assam for the year 1999. In all these schools diaries, we find that those teachers, ^{described as} who belong to the category of PCM, have been so ~~situated~~ as TGT (PCM). If the posts were only sanctioned as TGT(Maths), there was no occasion for the respondents/review applicants to show that these teachers as TGT(PCM). There is yet another reason ^{why} ~~why~~ the contention raised by the respondents cannot be accepted because ^{it is} as late as in the year 2002 ~~also~~ that

4. Respondents have given advertisement for the post of TGT(PCM) in Air Force, Station, Chakeri. If the sanctioned strength was only TGT(Maths), it is not understood how they were advertising the post of TGT(PCM). After all a person would be appointed only against a sanctioned post and if there was no post of TGT(PCM) as alleged by them, ^{naturally} ~~thus~~, there was no need for them to advertise the post of TGT(PCM). The very fact that they have ~~been~~ advertised the post of TGT(PCM) and had also been reflecting them in their school diaries as well, as TGT(PCM), coupled with the fact that principal of the school had also ~~been~~ certified that applicant was indeed working as TGT(PCM), I do not find any force in the arguments advanced by the review applicants.

5. I had put specific question to the review applicants counsel as to whether Phy. and Chem. subject are being taught

to the students of Class-IX and X in Chakeri School or not, to which I was informed that there are students in Class-IX and X at Chakeri School, who are being taught Phy. and Chem. Now TGT(PCM) connote subjects Phy., Chem. and Maths while TGT(Math) ~~is indicated~~ ^{for} teachers only Maths. Therefore, if the subjects of Phy. Chem. are still being taught in the school to class IX and X and as per the certificates annexed by the applicant which ^{shows} that he had indeed been working as TGT(PCM) ^{ive} I do not find any justification as to how he could have been declared surplus by treating him as TGT(Maths). The only ^{defence} ~~definition~~ taken by the review applicants is that since the ^{seen} sanctioned posts is that of TGT(Math), therefore, even though he is teaching Phy. and Chem. yet he was declared surplus ^{as issued} ~~re in~~ as TGT (Maths).

8. I remember ~~distantly~~ ^{distinctly} that when the judgment ~~de or when~~ dictated in this case finally in the O.A. applicant ~~of~~ think, had produced ~~an~~ vacancy position in the school of review Kanpur as given by the principal which clearly states that there was a clear vacancy of TGT (PCM) ~~si~~. Then counsel for the review applicants before us now ~~had given~~ ^{the scope of} time to confirm the position but inspite of taking time ~~not~~ he was ~~in~~ in a position to rebut the documents annexed by the applicant. Even now review applicants have not disputed any of the certificates given to the applicant by various principals or the vacancy position as was shown by the principal of Chakeri School as on 30.09.2002. Therefore, it is abundantly

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clear that there was no error apparent ~~on~~ the face of record, in the judgment which was given by me in the O.A. I had given the judgment after applying my mind to all the aspects and after considering the various documents which were placed on record, because I was not satisfied with the stand taken by the respondents before me. Now the review applicants have issued a seniority list as on 26.02.2003 wherein they have included the names of all the TGT (PCM) as well as TGT(Maths) showing them to be as TGT(Maths) but even this seniority list was ~~on~~ never placed before me. even though, several opportunities ~~had~~ been taken by the respondents. It is seen that after the judgment was passed, review applicants have issued certain documents to show that TGT(Maths) and TGT(PCM) are in one category. But since none of these documents were produced by them at the time when the arguments were being made or when they were give time to produce the same, I do not think, ~~they~~ ^{they have} made out any case for interference in the review application.

7. It would be pertinent to mention here that the scope of review application is very limited. It cannot be ^{filed} ~~filed~~ to reargue the matter nor can they be allowed to bring ~~all~~ any documents, which they could have produced earlier with due diligence. Review application can be filed only if they come across ^{with} certain new facts which were either not in their ~~they~~ ^{they could} knowledge or they ~~were~~ not have laid ~~of~~ their hands on such

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documents inspite of due diligence ^{and B} ~~but~~ they go to the root of the matter. In this case even at the cost of repetition I would like to say that if respondents were serious enough they could have produced the documents, ^{which} ~~they are relying now~~ ^{on 8} alongwith Counter Affidavit or Supplementary Counter Affidavit as they were given sufficient opportunities. But since no such document was produced and even now I am not satisfied with the stand ^A ~~taken by review applicant B~~ therefore, this review application is dismissed with no order as to costs.

YB

MEMBER (J)

shukla/-