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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

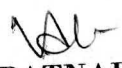
Original Application No.396 of 2008
Cuttack, this the 23rd day of September, 2011

Sri Biswanath Paul Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(C.R. MOHAPATRA)
MEMBER (ADMN.)


(A.K. PATNAIK)
MEMBER (JUDL.)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

OA No.396 of 2008

Cuttack, this the ~~23~~ day of September, 2011

CORAM:-

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A);

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.).

.....

Shri Biswanath Paul, aged about 48 years, Son of Late Bijoy Chandra Paul, Ex-PGT (Math) of Kendriya Vidyalaya, C/o.Sarat Chandra Bal, At/Po.Kadalbandh, Dist. Mayurbhanj, Orissa-757 001.

....Applicant

By legal practitioner: M/s.K.C.Kanungo, S.Behera,
S.K.Patnaik, Counsel.

- Versus -

- The Kendriya Vidyalaya Sangathan represented through:
1. Vice-Chairman, Kendriya Vidyalaya Sangathan, Shastri Bhawan, 1st Floor, C-Wing, New Delhi- 110001.
 2. Commissioner, Kendriya Vidyalaya Sangathan, Institutional Area Sahid Jeet Singh Marg, New Delhi-110 016.
 3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Laxmisagar, Bhubaneswar-751 006.
 4. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Silchar Region, Silchar, At/Po.Silchar, Dist. Kochar, Assam.
 5. Principal, Kendriya Vidyalaya, Lekhapani-786 180, Silchar Region, Assam.

.....Respondents

By legal practitioner: M/s.S.K.Patnaik,U.C.Mohanty,
Counsel.

.....

ORDER

Per-MR.A.K.PATNAIK, MEMBER (JUDL.)

The facts in brief are that the Applicant (Shri B.N.Paul), formerly PAGT (Mathematics) of Kendriya Vidyalaya, Dhanbad, being aggrieved by the order of his termination from service passed by Respondent No.2 under provisions of Article 81 (b) of the Education Code of Kendriya Vidyalayas and communicated to him by order dated 02/03-05-2002, had earlier approached this Tribunal in OA No. 176 of 2003 praying therein to quash the said order of termination as also the order of the Appellate Authority dated 15-01-2003 and to direct the Respondents to reinstate him to service with all consequential service and financial benefits

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retrospectively. The said OA, in order dated 29th April, 2005 was allowed by this

Tribunal to the extent stated herein below:

"16. In this view of the matter, as the disciplinary proceeding, from the start to finish, has been based on no complaint and without following any of the procedure either prescribed by KVS's letter dated 24.02.2002 or the procedure as laid down in Avinash Nagra's case (Supra), this OA succeeds on ground of illegality of the action initiated against him, its irrationality and above all, procedural impropriety. It thus passes all the three conditions of Wednesbury test. We accordingly, set aside the impugned order dated 2/3.5.2002 (Annexure-4) as also the appellate order at Annexure-6 and direct the Respondents to reinstate the applicant in service from the date he was removed with all consequential service benefits. Liberty is however, granted to the Respondents to take such action as deemed necessary to correct the pattern of behaviour of the applicant in dealing with the students as a whole and the girl students in particular in the interest of harmonious student teacher relationship. No costs."

The aforesaid order dated 29th April, 2005 of this Tribunal was

challenged by the Respondents/KVS in WP (C) No.13969 of 2005 before the Hon'ble High Court of Orissa. After due discussion and deliberation, the Hon'ble High Court of Orissa in order dated 19.12.2007 quashed the order of this Tribunal dated 29th April, 2005 with observation as under:

"8. In the instant case as the Tribunal has held the preliminary enquiry report was not supplied to the Opp. Party and the appeal was preferred without affording opportunity to peruse the preliminary enquiry report by the opposite party, we are of the opinion that the Tribunal should have quashed the impugned order of termination and should have remitted the matter to the appellate authority with a direction to the instant petitioners to provide the copy⁸ of the preliminary enquiry report with liberty to file supplementary grounds on appeal before the appellate authority with a direction to the appellate authority to decide the appeal afresh.

9. In view of the above mentioned facts and circumstances, the writ petition is allowed in part. The impugned order passed by the Tribunal dated 29.4.2005 is quashed. However, we quash the order passed by the appellate authority rejecting the appeal and direct that the Opp. Party No.1 shall be provided copy of the preliminary enquiry report and it will be open for him to file a supplementary grounds in the appeal before the appellate authority within a period of one month from the date when the certified copy of this order becomes ready for delivery, if applied for by him within a period of one week from today and the appellate authority shall decide the appeal afresh by a reasoned order taking into

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consideration the contentions and supplementary contentions raised by the opposite party No.1 of the instant writ petition. No order as to costs."

As it appears from the record, after the order of the Hon'ble High Court of Orissa, on receipt of the preliminary report, the Applicant in furtherance to his earlier appeal submitted another application dated 08-04-2008 canvassing supplementary grounds Q to Z3 before the appellate authority. Thereafter, the Appellate Authority rejected the appeal of the applicant and communicated his decision to the applicant in letter under Annexure-A/11 dated 18-06-2008. Hence this OA with prayer to quash the order of the Disciplinary Authority imposing the punishment of termination under Annexure-A/5, the order of the Appellate Authority at Annexure-A/11 and to direct the Respondents to reinstate him to service with all consequential service and financial benefits retrospectively.

By filing counter, the Respondents contest the case of the Applicant. They have stated that in compliance of the order of the Hon'ble High Court of Orissa, the Applicant was supplied the preliminary enquiry report on receipt of which the applicant submitted supplementary grounds in his application dated 08-04-2008. The Appellate Authority took into consideration the grounds set forth by the applicant in his original appeal as also in the second application and finally decided not to interfere in the order of the Disciplinary Authority. Further contention of the Respondents is that as per the Rulings of the Hon'ble Apex Court, the Tribunal while exercising its jurisdiction cannot sit as an appellate authority over the acts and deeds of the authority and seek to correct them and doctrine of fairness evolved in administrative law was not supposed to convert the Tribunal into appellate authorities over administrative authorities. Hence they have prayed to dismiss this OA.

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By filing rejoinder the applicant has more or less reiterated the stand taken in his OA. Having heard Learned Counsel for both sides we have perused the materials placed on record.

Law is well settled in a plethora of judicial pronouncements that the authority vested with the power to consider the grievance of employees is duty bound to meet and answer all the points raised in appeal. One of the salutary requirements of natural justice is spelling out reasons for the order made. It has also been held by the Hon'ble Apex Court that recording of reasons in support of a decision by a quasi judicial authority is obligatory, as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy or reached on ground of policy or expediency. On microscopic examination of supplementary grounds adduced by the Applicant in Annexure-A/10 vis-à-vis the order of the Appellate Authority under Annexure-A/11 we are convinced that the order of the appellate authority is without meeting/answering the points raised by the Applicant in Annexure-A/10. The grounds taken by the Applicant in Annexure-A/10 has also not been answered in the counter. The order of the Appellate Authority is merely repetition of the order of the Disciplinary Authority.

In view of the above, we quash the order of rejection of the appeal of the Applicant by the Appellate Authority under Annexure-A/10 and remit the matter back to the Appellate Authority to consider the appeal of the applicant by meeting/answering all the points raised by him in his original appeal so also in the supplementary appeal preferred by him in compliance of the order of the Hon'ble Apex Court and pass a reasoned order within a period of sixty days from the date of receipt of copy of this order. Meanwhile the status of the applicant as he was after the order of the Hon'ble High Court of Orissa.


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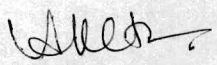
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With the aforesaid observation and direction this OA stands

disposed of. No costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)


(A.K. PATNAIK)
MEMBER (JUDL.)

