

I/9

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos 291/04 and 295/04.

Date of decision: 11.04.2005.

Hon'ble Mr. Kuldip Singh, Vice Chairman.

Hon'ble Mr. G.R. Patwardhan, Administrative Member.

1. G.S. Sethi, S/o Shri Sahib Singh, aged 47 years, at present Working as Principal, Kendriya Vidyalaya, Air Force Station, Jaisalmer, r/o New Sarajganj, Jalandhar City, Punjab
2. A.T. Mishra s/o shri Dinabandhu Mishra, aged 47 years, at present Working as Principal, Kendriya Vidyalaya, BSF, Jodhpur, r/o Village Tolagopinathpur PO Jallarpur via Nilai, Dist. Cuttack Orissa.
3. Smt. Rajni Taneja, w/o Shri T.P. Taneja aged 43 years at present Working as Principal, Kendriya Vidyalaya, Air Force Station, Jodhpur, r/o 1/15. Prakash Nagar Idgah, Dehradun.
4. Bipin Kumar Srivastava, S/o Shri N.K. Srivastava, aged 52 years, at present Working as Principal, Kendriya Vidyalaya, Ekling Garh, Udaipur, r/o 249 D. alok Puri Colony, Niyan Road, Faizabad (UP)
5. Smt. Valsa Jacob w/o shri K G Thomas aged 51 years, at present Working as Principal, Kendriya Vidyalaya, Nal Bikaner, r/o IX/502 Pallam House, Pandikudi, Cochin. 2
6. S.P. Agrawal, S./o late Shro Rohan Lal Agrawal, aged 49 years, at present Working as Principal, Kendriya Vidyalaya, Bhilwara, r/o Rajshree Colony, Near Vinayak Nagar, bohra Ganesh Ji Udaipur.
7. Ashok Kumar, s/o shri B D Sharma, aged 58 years, at present Working as Principal, Kendriya Vidyalaya, Jalipa Cantt. Barmer, r/o 35/8 mansarovar, Merrut UP.
8. Ramjee Singh, S/o shri S.D. Singh aged 45 years at present Working as Principal, Kendriya Vidyalaya, Suratgarh STPS, Distt. Sriganga Nagar, r/o Village and Post Nachap, Distt./ Buxar, Bihar.
9. R. Nallappan, S/o shri P. Ramaswamy, aged 47 years, at present Working as Principal, Kendriya Vidyalaya, Sriganganagar, r/o Sathi Palahyam, Sala Siramani, Distt. Namakkal, Tamil Nadu.
10. K K. Gupta, S/o shri M.R Gupta, aged 44 years, at present Working as Principal, Kendriya Vidyalaya, Churu, r/o 97, Mastgarh Jammu.
11. R.C. Rastogi, S/o Shri P.L. Rastogi, aged 50 years, at present Working as Principal, Kendriya Vidyalaya, No.1 Bikaner, r/o L VI/78, Sec. L Aliganj, Lucknow, UP.



KM



: Applicants in O.A. No.291/2004

VERSUS

1. The Union of India, through the Secretary, M/o Human Resources, Development, Government of India, New Delhi.
2. The Chairman, Kendriya Vidhyalaya Sangathan, 18, Institutional Area, SJS, Marg, New Delhi.
3. The Commissioner, Kendriya Vidhyalaya Sangathan, 18, Institutional Area, SJS Marg, New Delhi.

: Respondents.

Mr. M.R. Singhvi, : Counsel for the applicants.

Mr. K K Shah: Counsel for the respondents.

Saseendran, P. S/o K P Kunhi raman, aged 50 years, r/o P.49, Air Force Station Suratgarh, at present Working as Principal, Kendriya Vidyalaya, No.1 Air Force Station, Suratgarh.

: Applicant in O.A. No.295/2004

Mr. H.S. Sidhu : Counsel for the applicant.

VERSUS



1. The Kendriya Vidhyalaya Sangathan, through the Commissioner ,18 Institutional Area, Sahid Jeet Singh Marg, New Delhi 110 016
2. The Chairman, Kendriya Vidhyalaya Sangathan, 18, Institutional Area, Sahid Jeet Singh Marg, New Delhi 16.
3. The Asstt. Commissioner, KVS regional Officer, 2-2A,Jhalana Dungari, Ist Floor, Jaipur (Raj)

: Respondents.

Rep. By Mr. K K Shah: Counsel for the respondents.



ORDER

Per Mr. Kuldip Singh, Vice Chairman.

Since the issue involved in both these O.A is common and they are based on the common set of facts, they were heard together and are being disposed of by this common order.

2. 11 applicants have filed O.A. No. 291/2004 and a single applicant has filed O.A No. 295/2004.

3. In both the applications, the applicants have assailed the order dated 19.11.2004 passed by the Kendriya Vidyalaya Sangathan (KVS for short) canceling their appointment as Principal on deputation basis. They have taken various grounds for challenging the same.

4. It appears that by one stroke, the appointment of 300 Principals in various KVS was cancelled. Besides these applicants, number of other affected persons filed OAs before various Benches of this Tribunal. One such OA was filed before the Principal Bench [O.A No. 281/2004- **Mrs Radha G.Krishan and ors vs. Commissioner, KVS and ors.**] in which the same issue had been raised. The said O.A has been allowed by the Principal Bench vide its order dated 21.12.2004, however, liberty was given to the respondents to take action if deemed appropriate, only in accordance with law and procedure.

5. The learned counsel for the respondents submitted that in the said O.A, liberty had been given to the respondents to take action if deemed appropriate, only in accordance with law and procedure, this O.A can also be allowed in similar terms. But the learned counsel for the applicants in

both the OAs submitted that subsequent to the order passed by the Principal Bench, the respondents have passed another order again terminating the services of the applicants as Principal. The learned counsel further stated that in the meanwhile some of the affected Principals like the applicants, have challenged the order before the Guwahati Bench of this Tribunal. The Guwahati Bench also followed the decision of the Principal Bench in **Mrs. Radha G. Krishan** (supra). However, the matter went to Hon'ble High Court at Guwahati as writ petitions were filed against the order of the Guwahati Bench and the Hon'ble High Court at Guwahati passed an interim order on 21.03.2005

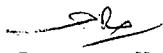
which reads as under:

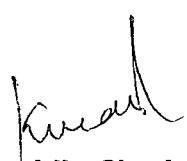
 "..... We deem it appropriate to direct that until further orders the operation of the impugned order dated 16.02.2005 passed by the learned Central Administrative Tribunal, Guwahati bench in O.A. No. 268/2004(MP 127/2004) & Ors. (annex. XXII) to the extent of the liberty granted to the respondents to take further action in the matter as set out in para 10 of the judgement shall remain suspended."

Hence the learned counsel for the applicant submitted that since the Guwahati Bench of this Tribunal also decided the O.A on the similar lines of the Principal Bench, and the matter was taken up before the Hon'ble High Court of Guwahati, which stayed the operation of the Guwahati Bench of the CAT, the respondents cannot take further action against the applicants. The learned counsel further submitted that some of persons affected by the subsequent order passed by the respondents after the Principal Bench's order dated 21.12.2004 approached the Chandigarh Bench of this Tribunal and the Chandigarh Bench of this Tribunal also stayed the operation of the subsequent order. Hence the learned counsel for the applicants submitted that the matter may be decided on merits and the respondents be restrained from proceeding further to terminate the services of the applicants.

[Signature]

6. We have heard the learned counsel for the parties and perused carefully the records and pleadings of these cases. Before proceeding with the case further, it may be mentioned that an Original Application can be filed only under Sec. 19 of the Administrative Tribunals Act, 1985, which postulates existence of an order which is to be challenged before the Central Administrative Tribunal and since in the case of applicants, the alleged second order has not been passed nor it could be passed during the pendency of these OAs, the applicants cannot ask us to set aside the hypothetical second order, which may or may not be passed by the respondents. But as regards the present impugned order dated 19.11.2004, is concerned, since the controversy involved has been already decided by the Principal Bench vide its order dated 21.12.2004, in **Smt. Radha G. Krishan** (supra) we have no option but to follow the order passed by the Principal Bench cited supra. It may be that the respondents, after the second order has been stayed by the Chandigarh Bench of this Tribunal, the respondents may not even think of issuing the second order in respect of the applicants or now the respondents may pass yet another appropriate order or the respondents may have second thinking to pass another order. Hence, in these circumstances, since the issue raised has already been settled and the merits and demerits of the impugned order has been already decided by the Principal Bench, we hold that the decision of the Principal Bench in **Smt. Radha G Krishan's** case (supra) squarely applicable to the facts of this case and we dispose of these OAs in terms of the orders passed by the Principal Bench. In the facts and circumstances of these cases, the parties are directed to bear their own costs.


 (G.R. Patwardhan)
 Administrative Member.


 (Kuldip Singh)
 Vice Chairman.

Jsv.

Part A & B kept & exptn.
Part C and D destroyed
in my presence on 09.1.14
under the supervision of
Section Officer () as per
order dated 4.8.14/13.

Section Officer (Record)

9/1/14

Received copy
13.4.05.
Nitin Y. Joshi
on behalf of
Mr. R. Singhvi Adv.

1 Recd.
V-R 15/2/14