

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 252 OF 2011

Friday, this the 16th day of November, 2012

CORAM:

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

Sudha Nair

W/o.V.Sukumar, (Former PG Teacher

Jawahar Navodaya Vidyalaya

Gajanur, Shimoga Dist.,

Pin – 677 202)

Residing at "Kailas Ganga"

Udyagiri Nagar, MLA Road

Puthlakavu, Udayamperoor

Ernakulam District, Pin – 682 307

- Applicant

(By Advocate Mr.T.C.G Swamy)

Versus

1 The Commissioner
Navodaya Vidyalaya Samiti
A-28, Kailash Colony
New Delhi – 110 048

2 The Dy Commissioner
Navodaya Vidyalaya Samiti (Hyderabad Region)
1-1-10/3, S.P Road
Secunderabad
Andhra Pradesh – 500 003

3 The Principal
Jawahar Navodaya Vidyalaya
Gajanur, Shimoga Dist,
Pin – 677 202

4 P.Ravi, Principal
Jawahar Navodaya Vidyalaya
Gajanur, Shimoga Dist,
Pin – 677 202

5. The Joint Commissioner (Admn.)
Navodaya Vidyalaya Samiti
Department of School Education & Literacy
Government of India
A-28, Kailash Colony
New Delhi -110 048

- Respondents

(By Advocate M/s.M.K Damodaran & Associates for R1-5)

The application having been heard on 09.11.2012, the Tribunal on 16.11.12 delivered the following:

ORDER

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

1. The applicant has filed this Original Application seeking the following main reliefs.

"8(i) Call for the records leading to the issue of Annexures A1 and A14 and quash the same.

(ii) Direct the respondents to reinstate the applicant back to service and direct further that the applicant be granted all consequential benefits as if Annexures A1 and A14 had not been issued at all."

2. The applicant avers that she is a post graduate in Commerce (M.Com) with additional qualification of MPM (Master of Personnel Management) and B.Ed. She applied for the post of PGT and was selected after due recruitment process. She was appointed as PGT (Commerce) on 18.06.2008 in Jawahar Navodaya Vidyalaya (JNV for short), Gajanur, Shimoga District vide Annexure A-2. As per the terms and conditions of the appointment as noted in Annexure A-2, she would be on probation for a period of two years from the date of joining and failure to complete the period of probation to the satisfaction of the competent authority, will result in her termination from service. According to her, despite the exemplary performance of the students in Class XII and XI, the 3rd respondent issued a series of memorandums to her stating that her performance was far from satisfactory (Annexure A-3). She states that she has orally informed about the correct facts regarding the Annexures A-4, A-5 & A-6 memorandums issued to her. She contends that action of R3/R4 in making such allegations from the beginning is malicious, arbitrary and perverse. The applicant had actively participated in the deliberations in the induction



course for the newly appointed PGTs in Commerce during the period from 19.06.2009 to 09.07.2009 at Navodaya Leadership Institute, Rangareddy (Annexure A-7). While so, the applicant requested for child care leave from 18.10.2009 to 18.03.2010 (Annexure A-8). In her Annexure A-8 leave application, she has pointed out that her father would have to undergo a bypass surgery, her mother is under treatment for heart attack and there is none in her house in Kerala to take care of her only child aged 09 years. Still the CCL requested by her was rejected. To her shock, she received Annexure A-9 memorandum from the second respondent, i.e; the Deputy Commissioner, Secunderabad, alleging inefficiency on her part. It was stated in the said memorandum that in spite of repeated warnings she had not improved her teaching and that she is in fact childish in her behaviour. This memorandum disturbed her mentally leaving her confused and depressed. Hence her father rushed to Shimoga and took her to their home in Kerala. She submitted necessary leave application to the third respondent. She was advised to take rest for a period of 30 days and hence she applied for grant of 30 days leave from 08.12.2009 duly supported by medical certificate (Annexure A-10). However, R3/R4 insisted on her resuming duty immediately and warned her to face termination from service otherwise (Annexure A-11). R3 thereafter took up the matter for termination of the applicant with R2. In his Annexure A-12 report to R2 he pointed out that the applicant does not show any responsibility towards her job. This resulted in engaging Guest Lecturer to finish left out units in Accountancy. Students had to take the help of Alumni students to cover the syllabus and to clear all the core concepts for the non-board/board exams.

3. According to the applicant, along with the letter, a copy of the



complaint from the students of class XI(b) was enclosed. The applicant contends that the complaint was fabricated to suit the convenience of R3 and to show that the entire syllabus was covered by an alternate arrangement within a period of 7 days. R2 terminated the service of the applicant on the basis of reports at Annexure A-9 and Annexure A-12, imputing misconduct. According to the applicant, R2 did not give an opportunity to her to work under another Principal to ascertain the correct position. No attempt was made to find out about the performance of the students whom the applicant taught and to find out how far the performance of the applicant is satisfactory. The applicant filed an appeal against Annexure A-1 order vide Annexure A-13. Her appeal was rejected by R-5, i.e; the Joint Commissioner of Navodaya Vidyalaya Samithi, New Delhi vide (Annexure A-14). According to her, Annexure A-14 does not show any application of mind on the part of R-5. She further averred that the external examiner who allegedly received liquid cash for valuation from students was left free and the applicant who allegedly collected the sum on his demand was terminated from service. She contends that the finding of R2 that the poor performance of the applicant has hampered the academic activities of students of class XI is wholly misplaced as the students have shown remarkable performance in both Business and Accountancy taught by the applicant. According to her, R3 spoilt the career of the applicant leaving her unsuitable for any future employment.

4. The respondents contested the Original Application and filed reply statement. They submitted that the performance of the applicant was far from satisfactory, right from the beginning and she displayed an indifferent attitude of teaching. Therefore, the R3 was constrained to issue Annexure A-3 memorandum calling upon her to improve her performance. However,



casual attitude persisted in spite of her being alerted to the fact and the advice given to her to show tangible improvement in teaching capability. The applicant, according to the respondents, had skirted the whole issue blindly stating that Annexure A-3 itself is issued with malafide intention. Moreover, the applicant used to behave in a strange manner and she was irregular in attending the classes. The applicant had not submitted any written explanation for the lapses which were pointed out to her. As per the respondents, the applicant cannot wriggle out of the issue by merely contending that she had offered oral explanation and that the authorities were convinced of the same. Therefore, after the issuance of the Annexure A-3 memorandum dated 04.10.2008 the respondents were compelled to issue Annexure A-6 memorandum dated 23.07.2009. They contended that the quality of teaching has considerable impact on the future of the students as well as the reputation of the Institution and hence they have repeatedly impressed upon the applicant to treat her job seriously. The respondents contended that mere allegations of malafide will not suffice, more particularly when it is not evidently supported by any material or any proper reply to the memorandums issued to her. The fact is that she remained silent and did not furnish any explanation to those memorandums issued to her. She had no explanation to offer as regards the veracity of statements in various memoranda that was issued to her. She had totally failed to consider the suggestions in a positive manner and improve her teaching and general attitude. She applied Child Care Leave from 18.10.2009 to 18.03.2010, which was rejected. She abruptly left the school and remained absent from 06.12.2009 to 08.12.2009. On 08.12.2009 she applied for leave for a month enclosing a medical certificate on the ground that she is suffering from viral hepatitis. She also sent an SMS on 18.12.2009 expressing her inability to continue in service. Under such circumstances,



the R3 issued an office order dated 23.12.2009 asking her to report back to duty. In the meanwhile, many students started voicing their complaints about her poor teaching methods as well as indifferent attitude (Annexure A-R1(c)). The respondents also submitted a copy of the report of the Vice Principal, JNV on the teaching methods of the applicant and the counseling given to her vide Annexure R1(a). Since the applicant remained on leave for long time, R3 took permission from R2 to engage the service of a Guest Lecturer for taking the Accountancy classes which should have been attended to by the applicant. The respondents point out that the applicant knew very well that she had to satisfactorily complete two years of probation and failure to do so may result in termination of her service. The service of the applicant was deficient in almost all respects. The respondents also produced Annexure R1(g) to show that she was not attending to the supervision of classes allotted to her and she tendered an explanation vide Annexure R1(h) that she was not feeling well. In view of the continued non-cooperation of the applicant, the students of Class X1 (Commerce) expressed their grievances to R3 stating that they are not clear about the basic accounting concepts which is absolutely necessary before they moved to Standard XII. Besides, they state that the applicant had not taught a few chapters based on computers. For this reason the guest lecturer was arranged. They added that the teaching method adopted by the applicant was by simply reading out from the books in the class room, whereby the essential concepts more often than not could not be assimilated by the students. They also produced Annexure R1(c) a copy of the letter prepared by XI Commerce students. The respondents pointed out that she has not taught last few chapters based on computer and also she has never been in the habit of preparing the lesson plan as per the standing instructions of Navodaya Vidyalaya. The lesson plan at Annexure R-1(I) of the applicant

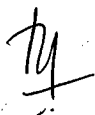


would clearly reveal that many of the columns are left blank. They further added that the question papers were not set in the format as adopted at the 11th Standard level. According to the respondents the applicant displayed utter defiance when she refused to escort female students from JNV Maligi North Canara District to JNV Gajanur, Shimoga District. Her refusal was on the ground that she cannot go to unfamiliar places. They stated that various teachers in the School are, on rotational basis assigned the responsibility to escort the female students as and when required. Such behavior on her part indicates that she is not prepared to carry out the myriad responsibilities expected of and required to be discharged by a teacher but also reveals the obstinate demanour of the applicant in not even making an earnest effort to cope with the situation.

5. The applicant filed rejoinder and averred that the R-2 has taken a decision to terminate her service on the basis of the report of R3 and R2 did not make an enquiry to take an independent decision in the matter. She was not granted sufficient time to submit her representation against adverse entries communicated to her. Moreover, as stated by the respondents the DPC need not meet to assess the performance of the applicant or to declare completion of probation.

6. Arguments were heard and documents perused.

7. The short point which comes up for consideration is whether the respondents terminated the service of the applicant, due to her failure to satisfactorily complete her probation on just and fair grounds and after giving her an opportunity to improve her teaching capability.



8. It is not in dispute that as per para 2 of the Annexure-A2 appointment order of the applicant as PGT (commerce) there was a probation period of two years and its satisfactory completion was essential. Failure to complete the period of probation to the satisfaction of the competent authority may entail her discharge during probation without assigning any reasons. She joined Navodaya Vidyalaya Gajanur in Shimoga district on 18-06-08. She was new to the profession and perhaps took some time to learn, as was argued by the council for the applicant during final hearing. For her, trouble started, within four months of her joining the respondent institution. She received the first memo from R-3 on 04-10-2008 vide Annexure A-3. The shortcomings enumerated therein, are extracted below

" a. Your teaching style/methodology needs to be improved drastically so that students find it interesting and learning become joyful experience for them.

b. You are unable to explain the concepts clearly with the result students performance is poor in your subjects and they are not able to show interest in subject. So you should go to the class with complete preparation and clarity in the concept.

c. Though you have been advised number of time by me and also by Vice Principal, the same trend is continuing. Being a fresher to Navodaya Vidyalaya, your casual attitude to the work will not help you to grow professionally.

d. It is also noticed that your attitude towards the suggestion given by the Principal and Vice Principal is not taken positively which is not the good sign for the beginner to grow professionally. "

9. Annexure A4 and A-5, followed in quick succession pointing out that she is not available in the class room for the periods allotted to her. Regarding Annexure A-4 the respondents submitted that vide Annexure R-1(f) dated 12-12-2008, the teachers were alerted about class observation by R-3 and Vice Principal from 15-12-2008 to 18-12-2008. The applicant signed in token of having seen the circular that her class XI B, sixth period will be observed by Vice Principal. The

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latter vide Annexure R-1(g) reported to R-3 that she waited outside and inside class room for twenty minutes, for the applicant to make an appearance. She came late and enquired the Vice Principal about the exact period for class observation. Therefore, the Vice Principal stated in her Annexure R1(h) report to R-3 that the applicant's behaviour was found to be irresponsible. According to the respondents the applicant did not take the oral and written counselling in the spirit, in which it was given to her and hence did not attempt to improve neither her teaching methodology nor her casual attitude to punctuality in attending classes or finishing portion on time for class XI and XII students. This resulted in students requesting R-3 to arrange guest lectures. So that they can catch up on unfinished portion and learn basic concepts in accountancy. (Annexure R1(m). The feedback from students also showed that she is reading out from the book and not attempting to clarify their doubts or explain the concepts. She did not give any project work or gave home work like copying five ads, they liked best. To decide on to further course of action to be taken R-3 constituted a committee, chaired by the Vice Principal to look into the performance of the applicant and submit a report (Annexure R1(p). Details to be enquired into vide Annexure R1(p) are extracted below:-

1. Portion covered till date including the practical and project work.
2. Opinion of the students about her teaching quality & House mastership.
3. Work done by her (Period wise) from 01.12.2009 to 06.12.2009
4. Students' level of understanding the subject and the preparedness for the forth coming I – Pre Board Exam. (Where ever required written statement should taken from the students)
5. Any other observation to assess her performance.

10. The report was submitted vide Annexure R1(g). It was noted therein that units allotted for the exam in accountancy and business studies were not completed for class XI and XII Commerce students, in spite of further time being

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given to her to complete the portion for class XII by 30-11-2009 and by 15-02-2010 for class XI. For class XI, out of seven units from Book II accountancy, not even a single unit was covered and only 7 ½ units out of 12 for Business studies were completed. For class XII, from accountancy Book II and business studies the left over units were 2 each as on 07-12-2009. The feedback from students given as a part of the report was negative on many aspects about the applicant, both as a teacher and House Mistress. However, they stated that the applicant did help sick students by giving milk and fruits from her home and did buy stationery items for students from outside. The emphasis in the report was about the inability of the applicant to explain the core concepts to the students which hampered the assimilation process on the part of the students. It was her point blank refusal to escort to two female students from JNV Maligi north Canara district, which compelled the respondents to take the ultimate step of dispensing with her services before completion of the two year probation period.

11. The issuance of a series of memoranda to the applicant from October 2008 onwards shows that the applicant found it difficult, to discharge her duties satisfactorily as a PGT. The situation got aggravated, as she did not attempt to follow the advice given to her to consult the senior teachers and learn from them the right teaching methodology. She had attitudinal problems as well. Perhaps she was emotionally insecure being away from her daughter, husband and parents. She was so emotionally disturbed that her father had to come and take her to her native place in Kerala. JNV was set up with lofty ideals and objective to give quality education to children from rural backgrounds. Hostel was provided for to cater to the needs of students coming from villages and from low income families. To provide a conducive ambience and environment to students of JNV, teachers with a particular frame of mind are required and whose priority is to ensure mental and physical well being of the children. They are expected to imbibe the right values from the teachers who naturally become their role models. Sincerity and dedication to their chosen profession are the hallmark of such

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teachers. Viewed from such a back drop, the applicant does not come out as having done justice to her role as an ideal teacher. No doubt she may have her own personal problems. To protect the interest of one teacher who is found wanting, interests of many students cannot be sacrificed. It is undisputed that the respondents did give her many opportunities to improve her teaching skills and to mend her behaviour. Therefore there was no denial of opportunity to the applicant to explain matters to the satisfaction of the respondents. The applicant could not bring out any well founded reasons for malice and malafides on the part of the R4.

12. In view of the forgoing, we do not find any merit in the OA. Accordingly it is dismissed. No cost.

(Dated 16th November, 2012)


K. NOORJEHAN
ADMINISTRATIVE MEMBER


Dr. K.B.S. RAJAN
JUDICIAL MEMBER

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