

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Original Application No.486/2004.

Lucknow; this day of 3.12.2004.

HON'BLE SHRI D.R. TIWARI, MEMBER (A).

HON'BLE SHRI M.L. SAHNI, MEMBER (J).

Mrs. P. Subhashini, aged about 47 years, wife of Shri I.P. Kutty, R/o Type-IV Quarters, Kendriya Vidyalaya Campus, Kendriya Vidyalaya I.I.M. Lucknow.

.... Applicant/Petitioner
By Advocate:-Shri H.G.S. Parihar.

Versus

1. The Chairman, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahidjeet Singh Marg, New Delhi-110016.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahidjeet Singh Marg, New Delhi 110016.
3. The Joint Commissioner (Admin.), Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahidjeet Singh Marg, New Delhi-110016.
4. The Dy. Commissioner (Personnel), Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahidjeet Singh Marg, New Delhi 110016.
5. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Lucknow Region, Lucknow.
6. The Chairman, Vidyalaya Management Committee Kendriya Vidyalaya, I.I.M. Lucknow.

..... Opp. Parties.

By Advocate:-Shri M.G. Misra.

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(BY SHRI M.L. SAHNI, MEMBER (J)).

The applicant ~~has been~~ working as Principal, Kendriya Vidyalaya, I.I.M., Lucknow has challenged the orders dated 18.11.2004 and 22.11.2004 whereby she has been repatriated to her substantive post of P.G.T. (Physics) after terminating her deputation to the post of Principal, on variety of grounds, inter-alia that the orders are illegal, arbitrary and unreasonable having been passed in violation of Principle of natural Justice as she had not been given any opportunity to be heard ~~and without~~ ^{even} issuing any show cause notice before passing the impugned order.

2. By way of interim relief, it has been prayed by the applicant that operation and implementation of the impugned order be stayed with the direction to the respondents to allow her to work as Principal, Kendriya Vidyalaya, I.I.M., Lucknow and also to pay her salary regularly each and every month without any break, during pendency of the O.A.

3. On receipt of notice, Learned counsel for respondents appeared, and accordingly argued ^{merit} at length on the prayer for interim relief have been heard.

4. On behalf of the applicant, it is submitted that similar order of even date impugned by the applicant in this case has been stayed by other Bench~~s~~ of the Tribunal and in order to maintain parity the applicant is also entitled to the interim relief as granted in those cases by the various Bench~~s~~ of this Tribunal. In this regard he has referred to Vishnu Traders Vs. State of Haryana and Others 1995 Supp (1) SCC-461 and State of Haryana & Others Vs. Piara Singh &

Others (1992) 4 SCC-118 wherein, it has been held that need for consistency in approach and uniformity in the exercise of judicial discretion respecting similar cases requires that all similar matters should receive similar treatment except where factual differences require a different treatment. He has placed copies of two such orders on the record to substantiate his submissions. One of the orders is in O.A.NO.1427/2004 passed by the Allahabad Bench on 26.11.2004 and another is that of Cuttack Bench in O.A.NO.1987/2004 dated 22.11.2004, copy of which has been annexed to the O.A. as Annexure-7. He has also placed a copy of Telegram purported to have been issued by the Hyderabad Bench of this Tribunal which pertains to O.A.NO.1226/2004 dated 23.11.2004. In all these cases the Tribunal have stayed the operation of the order dated 18.11.2004, consequent upon which order dated 22.11.2004, both ^{is passed which} ~~are~~ impugned in this O.A. ~~have been stayed.~~

5. On behalf of respondents, a copy of the order passed in O.A.NO.2801/2004 dated 23.11.2004 of the Principal Bench has been referred to, copy ~~whereof~~ has also been produced for our perusal.

6. It is submitted on behalf of respondents that in view of the order passed by the Principal Bench in O.A.NO.2801/2004, no Prima-facie case is made-out for granting the interim relief to the applicants till the respondents bring on record full facts of the case and circumstances which have led them to ~~pass~~ the impugned order in this case. It is, however not disputed that other Benches of the Tribunal on which reliance has been placed by the learned counsel for applicant have passed the order of staying the operation of order of terminating the deputation of

who are
those Principals similarly situated like the applicant.

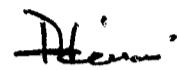
7. We have gone through the orders passed in O.A.NO.2801/2004 wherein, number of applicants have challenged the order of termination of their deputation and while ordering maintaining status-quo in respect of some of them who have been regularly appointed, others have been declined not entitled to the grant of interim stay. Thus, in the order the applicants have been bifurcated in two sets and one set of the applicants have been granted the stay partly while others have been denied the interim relief. However, a perusal of orders passed by the Cuttack Bench, Allahabad Bench and Hyderabad Bench on which reliance has been placed by the applicant, we find no reason to differ with the view taken by those Benches while granting the stay of the before operation of the impugned orders by them. Considering the reasons recorded in the order passed by Allahabad Bench and Cuttack Bench, we find our-selves in full agreement with those benches that there is Prima-facie case made out by the applicant as against the action taken by the respondents in passing the impugned orders stay of which is being prayed at this stage by the applicant because, if the interest of the applicant is not protected at this stage it is likely it shall cause irreparable loss to the applicant whereas, the respondents shall be getting due opportunity to raise objections against the interim relief granted to the applicant by filing Counter-Affidavit to the O.A. and raising due objections against the applicant's claim in due course of time, because her deputation vide order dated 28.6.2004 had already been extended by the Competent authority till 11.8.2005 vide Annexure-6. It is accordingly directed that operation of the orders dated

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18.11.2004 and 22.11.2004 shall remain stayed till the next date when both the parties ~~shall~~ ^{are required to} complete their pleadings as already ordered. It is further directed that the applicant shall not be restrained ^{ed} to work on the post of Principal Kendriya Vidyalaya, IIM, Lucknow and paid her salary regularly till the interim order continues.



(M.L. SAHNI)
MEMBER (J)



(D.R. TIWARI)
MEMBER (A)

Received today
Akbarpur 3/12/04
C/o H.G.S. Parikh
Advocate
M.L. Sahni
6/12/04