

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW.**

ORIGINAL APPLICATION No. 284/ /2006.

This, the 30 day of April, 2007.

**Hon'ble Mr. A. K. Singh Member (A)
Hon'ble Mr. M. Kanthaiah, Member (J)**

**R.s. Maurya S/o (Late) Ram Kumar R/o Vill-Shahpur Awrawan
P.O. Ram Nagar Distt-Ambedkar Nagar (U.P.) Last employed at
—Kendriya Vidyalaya Dharchula (Pithoragarh) as Post Graduate
Teacher (P.G.T.) Chemistry.**

Applicant.

By Advocate : Applicant in person.

Versus

**1. Union of India Represented by Joint Commissioner
(Admin) & Appellate Authority Kendriya Vidyalaya Sangathan,
18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16.**

**2. The Assistant Commissioner (Disciplinary authority)
Kendriya Vidyalaya Sangathan (R.O.) Salaaawala, Hathbarkala,
Dehradun (U.A.)**

**3. Mr. M.L. Gedam Principal and D.D.O. Kendriya
Vidyalaya, Dharchula Distt. Pithoragarh (U.A.)**


Respondents.

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By Advocate Shri N.P. Singh.

Order

BY Hon'ble Mr. A. K. Singh, Member(A)

O.A. bearing No. 284/2006 has been filed by the applicant Radhey Shyam Maurya against order dated 17.3.2006 passed by Assistant Commissioner Kendriya Vidyalaya Sangathan (R.O) Salawala, Hathibarkala, Dehradun (U.A.) who is the Disciplinary Authority in the case of the applicant.

2. By this O.A., the applicant seeks quashing of impugned order of termination dated 17.3.2006 passed by Respondent No. 2 namely Assistant Commissioner Kendriya Vidyalaya Sangathan , Dehradun, (Uttranchal) under the provisions of Article 81 (D) of Education Code and seeks a further direction to the respondents to disburse the subsistence allowances and other benefits payable to him under the Rules along with interest @ 24% within a specified period and to strike down the provision of Article- 81 (D) of education Code as well as to allow the cost of this petition the applicant.

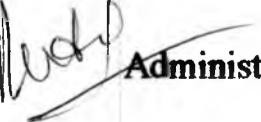
3. The applicant has filed this O.A. showing his address as Village-Shahpur Awrawan Post Office. Ram Nagar Distt-Ambedkar Nagar (U.P.) The applicant was placed under suspension on 16.12.2005 and a charge sheet was issued to him under Rule 14 of *Mud* C.C.S. (CCA) Rules 1965. His Headquarter was also changed to Kendriya Vidyalaya Sangathan Regional Office Dehradun but he

failed to report at the station. Subsequently, the services of the applicant were treated as abandoned from the date of his suspension w.e.f. 6.12.2005 with loss of lien on the post of Post Graduate Teacher held by him in Kendriya Vidyalaya Sangathan in accordance with the provisions of Article 81 (D) of the Education Code. The order in question has been passed by the Assistant Commissioner Kendriya Vidyalaya Sangathan vide office letter No. 7-87/2005/KVS/DDR/13268 dated 17.3.2006. The order in question has also been notified through press.

4. Both the parties were heard on 26.3.2007. The applicant appeared in person and respondents were represented by Shri N.P.Singh senior counsel Allahabad High Court.

5. The counsel for respondents have raised two important preliminary objections against the O.A In the first place they submit that the order passed by the Disciplinary Authority dated 17.3.2006 has not been appealed before the Appellate Authority i.e. Joint Commissioner (Administration) Kendriya Vidyalaya Sangathan New Delhi within the stipulated period and in the second place, the aforesaid order dated 17.3.2006 has been passed by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Dehradun from Dehradun in Uttranchal Moreover, prior to the impugned order of suspension dated 6.12.2005, the applicant was working in Kendriya Vidyalaya Sangathan, Dharchula in the state of Uttarakhand. Both these places come under the territorial jurisdiction of Central Administrative Tribunal, Allahabad Bench and

not of Lucknow bench. Hence this Tribunal has no jurisdiction to hear and decide this O.A. We have considered the matter. It is our considered view that this Tribunal has no jurisdiction to entertain the O.A. as cause of action in this case has arisen at Dehradun/Dharchula in Uttarakhand. Since the Assistant Commissioner Kendriya Vidyalay Sangathan who passed the impugned order dated 17.3.2006 is based at Dehradun in Uttarakhand. The applicant was posted at Kendriya Vidyalaya Sangathan, Dharchula at the material point of time. Rule 6 of CAT (Procedure) Rules 1987 provides that the application shall be filed before the concerned bench of the Tribunal in whose jurisdiction the cause of action has arisen. The applicant has been showing different addresses at different times. As the cause of action in this case has arisen at Dehradun/ Dharchula in Uttarakhand, the application should have been filed before Allahabad bench which has territorial jurisdiction in the matter. The O.A. is therefore liable to be dismissed for want of jurisdiction. In the second place we also find that the applicant was entitled to avail an alternative remedy. He could file an appeal under Rule 81-C before Joint Commissioner KVS,(Admn) New Delhi against order dated 17.3.2006 treating him to have abandoned the service w.e.f. the date of his suspension i.e. 6.12.2005. Applicant has also not filed any reliable or convincing evidence to the effect that he had filed such an appeal before the above mentioned authority.

6. The O.A. therefore has been filed in violation of Section 20 of  Administrative Tribunal Act 1985 and is liable to be dismissed as pre-

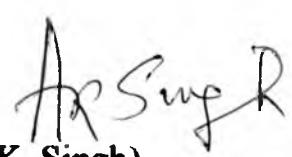
mature. Section 20 of the Administrative Tribunal Act 1985 reads as under :-

“ Applications not to be admitted unless other remedies exhausted (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.”

7. In view of the above, O.A. bearing No. 284/2006 is liable to be dismissed on both accounts i.e. for want of jurisdiction as well as for having been preferred without exhausting alternative remedies available under the statute as provided under Section 20 of the Administrative Tribunal Act 1985.

8. We dismiss the O.A. on both grounds accordingly. Liberty is however given to the applicant to file this O.A. in the appropriate bench for redressal of his grievances. Since the O.A. is being dismissed, the interim order issued by this Tribunal dated 7.9.2006 is automatically stands vacated. The bench copy of the O.A. may be returned to the applicant. No costs.


(M. Kanthaiah)
Member (J) 3.4.07.


(A.K. Singh)
Member (A)