

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNAOA No. 225 of 2006

Date of order: 10.8.2007

C O R A M

Hon'ble Mr. S.N.P.N. Sinha, Member [Admn.]

Baidyanath Jha S/o Late Pandit Rameshwar Jha, resident of village +
P.O. Radauli, District - Begusarai Applicant.

Vrs.

1. Kendriya Vidyalaya Sangathan, though the Chairman, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 16.
2. The Commissioner, Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi -16.
3. The Joint Commissioner[Administration] Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. Dr. V.N.Singh, Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Kankarbagh, P.O. Lihia Nagar, Patna.
5. The Principal Kendriya Vidyalaya, Jamalpur, Bihar.
6. Mr. R.Kishore, Vice-Principal, Kendriya Vidyalaya Jamalpur, Bihar.
7. Mr. R.P.Singh Inquiry Officer, Perincipal, Kendriya Vidyalaya Baily Road, Patna.
8. Shri A.K.Pandey, presenting Officer, Principal Kendriya Vidyalaya Kankarbagh, Patna. Respondents.

Counsel for the applicant : Shri Suresh Kumar Iswar
Counsel for the respondents : Shri G.K. Agarwal, ASC

ORDER

S.N.P.N.Sinha, Member [A] :-

The present application has been filed on 3.3.2004 for setting aside ^{the order of the Respondents} *^ 2*

Treating
the period of the applicant's absence from 17.5.2004 to 31.12.2004 as dies non and for direction to the respondents for payment of salary etc. for the said period as well as for the period of suspension that is from 31.1.2003 to 18.4.2004 which has since been regularised as period spent on duty by order dated 21.6.2006. The applicant was Physical Education Teacher in Kendriya Vidyalaya Sangathan posted at Jamalpur. He retired from service on 31.12.2004. He was placed under suspension by order dated 31.1.2003. Departmental proceeding was started against him. On charges of misbehaviour, indiscipline and misconduct having been proved against him the disciplinary authority, i.e. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna imposed the punishment of compulsory retirement by order dated 17.5.2004. By another order dated 18.5.2004 it was ordered ^{was to} *^ 2* that the period of suspension [from 31.1.2003 to 18.4.2004] will be treated as leave of the kind due to the applicant. He was relieved from the service of K.V.S. By order dated 22.5.2004. He filed an appeal to the Joint

Commissioner on 18.6.2004. He also filed O.A. No. 710 of 2004 which was disposed of with direction to the respondents to consider and decide the applicant's appeal in accordance with law. By order dated 5.4.2005 the appellate authority i.e. Joint Commissioner, K.V.S. Set aside the order of compulsory retirement and further ordered for the period of his absence from 17.5.2004 to 31.12.2004 as dies non.

2. It has been submitted on the respondents' behalf that the applicant subsequently represented for regularization of the period of suspension i.e. from 31.1.2003 to 18.4.2004 as the penalty order of the Disciplinary Authority had already been set aside by the Appellate Authority. On consideration it was decided by the Appellate Authority in order dated 21.6.2006 that the period of suspension be treated as one spent on duty for which the applicant would be entitled for pay and allowances as per rules.

It has been further submitted in para 17 of the respondents' written statement that subsequent to the order dated 21.6.2006 retirement benefits are being revised based on the said order and that remedy of appeal has not been exhausted by the applicant against the treatment of the period between the date of penalty and retirement i.e. 17.5.2004 to 31.12.2004 as dies non.

3. In view of the aforesaid discussion, the application is disposed of at this stage itself with direction to the respondents to consider the case of the

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applicant as made out in the present application and take a reasoned and speaking decision in the matter in accordance with law within a period of three months from the date of this order. The applicant is directed to make *available*
a copy of this O.A. to the respondents ~~available~~ within fifteen days of receipt of its certified copies.

4. The O.A. is disposed of accordingly. No costs.

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[S.N.P.N. Sinha]
Member [Admn.]

mps.