

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 853 of 2001.

Dated this Monday, the 4th day of February, 2002.

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

Smt. Vandana G. Chivate,
C-2/8, Tridal Nagar,
Yerawada, Pune - 411 006.

... Applicant.

(By Advocate Dr. A. K. Sharma)

VERSUS

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahid Jeet Singh Marg,
New Delhi - 110 016.

2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
I.I.T. Campus, Powai,
Mumbai - 400 076.

... Respondents.

(By Advocate Smt. H. P. Shah)

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

We have seen the papers in O.A. including the reply, etc. and have heard the Learned Counsel, Dr. A. K. Sharma, for the Applicant and Smt. H. P. Shah, Learned Counsel for the Respondents. Since the facts and issues are in a short compass, we are disposing of the matter at the admission stage, after hearing both parties.

2. In spite of the wording of the relief sought in somewhat hazy language, the basic question involved relates to the

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voluntary retirement application submitted by the Applicant. Admittedly, the application was submitted on 30.06.2001 (page 28 Exhibit 'E'). Although there is a preamble in the application to the aspect of her grievance of transfer, she has made a clear statement requesting for voluntary retirement and has also simultaneously sought the waiver of three months notice period. It is significant that no date is specified by the Applicant from which she would seek retirement, after waiver of notice period. The Respondents have thereafter issued a Memo dated 04.07.2001 which is annexed by Applicant at page 47 and by Respondents at page 58. The memo considers the request for voluntary retirement of the applicant and also for the request for waiver of condition of period of notice and she has been permitted to retire voluntarily from the service of Kendriya Vidyalaya Sangathan w.e.f. 27.06.2001.

- ✓ 3. What has transpired in fact is that the Applicant happened to have been relieved for proceeding to the next station of transfer w.e.f. 26.06.2001. Learned Counsel for the Applicant, Dr. Sharma, argued at some length about the grievance on transfer. We will at once make it clear that we are not going into the merits of the grievance of Applicant regarding transfer, since that is not the issue involved. The issue relates to voluntary retirement. The question that arises is whether applicant can be allowed to resume service again. Now once the voluntary retirement has been accepted, the issue regarding her grievance on transfer are not being looked into. The fact is that she may have been transferred but instead of choosing to

agitate on that, without putting in her papers, the Applicant has made a specific request for voluntary retirement. This request has been accepted, as already described.

4. The law settled in this regard on withdrawing of applications made for voluntary retirement is clear, in that, it should be made prior to the date on which retirement takes effect. Here in this case, since there is a clear request for waiver of notice and no date is specified, it has to be assumed to read as a request made from a date on which the Respondents may decide. Hence, no arguments regarding the date can be raised, except ofcourse, the one raised by the Learned Counsel, Dr. Sharma, to the effect that by a letter of 04.07.2001 the voluntary retirement cannot come to be accepted from an earlier date, viz. 27.06.2001, as indeed has been done in the present case. We take up this aspect for consideration.

5. In fact, it could be straightaway concluded that this part of the action taken by the Respondents is incorrect, and since they have issued orders for accepting the request of voluntary retirement vide order dated 04.07.2001, it cannot take effect from an earlier date even though she may have been relieved already. To this extent, the Applicant will get protection by way of her right to payment of her salary between the aforesaid period namely - 27.06.2001 and 04.07.2001. She will thus be deemed to have been retired from service (voluntarily) with effect from the afternoon of 04.07.2001 i.e. with effect from 05.07.2001. Revised orders to this effect shall

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be made by Respondents in view of the above decision of this Tribunal. The period of 8 days between 27.06.2001 to 04.07.2001 shall be treated as leave due and admissible; if this period of 8 days or part thereof comes to be treated as Extra Ordinary Leave it shall be without break in service.

5. The O.A. is disposed of with the above directions. No order as to costs.

B. N. Bahadur
(B. N. BAHADUR)-
MEMBER (A).

B. Dikshit
(BIRENDRA DIKSHIT)
VICE-CHAIRMAN.

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dt: 4.2.2002.
Order/Judgement despatched
to Applicant/Respondent (s)
on 22.2.2002.

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