

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 23/10/02

TA 7/2001 (SBCWP No.3996/93)

Kumari Rajshri Sharma d/o Shri S.B.Sharma r/o G-135, Sector II-A
Post Office Khetrinagar, Distt.Jhunjhunu.

... Applicant

Versus

1. Kendriya Vidyalaya Sangathan, 18 Sansthanik Kshtra, Shaheed Jeet Singh Marg, New Delhi, through its Secretary.
2. Assistant Commissioner, KVS, Jhalana Doongri, Jaipur.
3. Kendriya Vidyalaya No.1 through Principal, Khetrinagar, District Jhunjhunu.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADM.MEMBER

For the Applicant

... Mr.H.S.Khandelwal

For the Respondents

... Mr.V.S.Gurjar

O R D E R

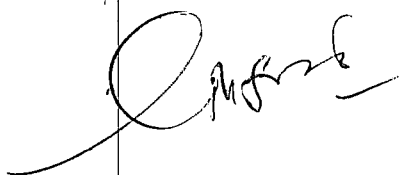
PER MR.JUSTICE G.L.GUPTA

Seeking the following reliefs, the applicant filed a writ petition before the Hon'ble Rajasthan High Court on 6.7.93 :

- a) by way of writ order or direction the order dated 21.12.91 may kindly be quashed.
- b) by way of writ order or direction the order dated 1.1.93 may kindly be quashed and set aside and respondents may be directed to give appointment to the petitioner on the post of primary school teacher in the office of respondent No.3.
- c) by way of writ order or direction the services of petitioner may be ordered to regularised in the office of respondent No.3."

Vide order dated 18.7.2001 the writ petition was transferred to this Tribunal and thereafter it was registered as TA 7/2001.

2. The case for the applicant is that she is MA,B.Ed. and she applied for the post of Primary School Teacher in the year 1984. She was selected by the Selection Committee after observing all formalities. She was given appointment on purely ad hoc



temporary basis from 4.7.84. She continued upto April, 1985. She was given appointment on ad hoc basis again from 2.8.85 to 3.10.85 and further from 7.10.85 to 30.11.85. It is stated that the applicant was again given appointment on ad hoc basis from 27.10.88 to 31.3.89. Further case for the applicant is that she was appointed as Primary School Teacher vide order dated 5.8.91 pursuant to the interview held on 22.6.91 yet her services have been terminated abruptly vide order dated 21.12.91 without assigning any reason. It is averred that the services of the applicant were satisfactory and she was given appointment after due selection and, therefore, her services could not be terminated in this manner.

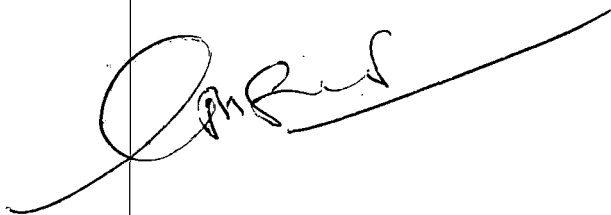
3. In the counter, the respondents' case is that the applicant was given appointment purely on ad hoc basis for a fixed term or till the regular incumbent joined the post. After the regularly selected candidate joined the post, the services of the applicant automatically stood terminated.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The learned counsel for the applicant contended that as the applicant had put in more than six years service when she was relieved of the duties, she was entitled to be regularised on the basis of the length of service. Reliance was placed on her behalf on the case of All Manipur Regular Posts Vacancies Substitute Teachers' Association v. State of Manipur, AIR 1991 SC 2088, and Santosh Kumar Sharma v. Commissioner, Kendriya Vidyalaya Sangathan & Ors., Misc.Petition No.902/91, decided by the High Court of Madhya Pradesh on 15.10.91.

6. On the other hand, the learned counsel for the respondents contended that the applicant was given appointment only on ad hoc basis and no right had accrued to her claiming regularisation or continuing on the job after the regularly selected persons were available. Reliance was placed on the case of Amar Jyoti & Anr. v. Kendriya Vidyalaya Sangathan & Ors., LPA (SW) No.199/1995, decided by J&K High Court on 30.4.97.

7. The learned counsel for the applicant contended that no person has been appointed from the selection list as yet and, therefore, the applicant's services ought not to have been



terminated. In this connection, he drew our attention to the rejoinder filed by the applicant on 13.8.2000.

8. At the outset it may be stated that the rejoinder dated 13.8.2000 has been filed by the applicant without the permission of this Tribunal. Hon'ble the High Court had also not permitted the applicant to file rejoinder. The rejoinder, which has been filed without the permission and also a copy of which has not been supplied to the other side, cannot be looked into. It is to be ignored.

9. The applicant has not placed on record the appointment order, whereby she was given appointment from 4.7.84. What has been placed on record by the applicant is the certificate dated 1.5.85 (Ann/1), which says that the applicant had worked on ad hoc basis as Primary School Teacher from 4.7.84 to 30.4.85. The second document is also the certificate dated 4.10.85 (Ann/2), showing that the applicant had worked as Primary Teacher on ad hoc basis from 2.8.85 to 1.10.85. The third document is also the certificate dated 3.1.86 (Ann/3), showing that the applicant had worked on ad hoc basis from 7.10.85 to 29.11.85. It is evident from the aforesaid three documents that the applicant had worked on ad hoc basis for some months from 1984 to 1986. The applicant's averment in the petition that she was given appointment after due selection cannot be accepted. The respondents have not admitted this fact in their reply and the applicant has not filed any document in support of the contention that a notification was issued in the year 1984 or that selection process envisaged in the relevant service rules was held before giving appointment to her.

10. In the petition it is also averred that the applicant had worked as a Teacher from 27.10.88 to 31.3.89 but no document in support of this contention has been filed by the applicant. Therefore, it has to be held that the applicant had not served during that period.

11. The important document filed by the applicant is Ann/4, which is the order of appointment given to her. It was clearly stated in the order that the appointment of the applicant was purely on ad hoc basis and her services were liable to be terminated without notice and without assigning any reason. The maximum period of appointment was six months, which could be

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curtailed if the regularly selected incumbent was available. It is evident from the relieving order dated 21.12.91 that the applicant was relieved with reference to the terms of the order dated 5.8.91 (Ann/4).

12. The respondents' case is that regularly selected person had joined, whereupon the applicant was relieved. There is no cause to disbelieve the version of the respondents.

13. Ad hoc appointment does not confer a right on a person to continue on the post. Ad hoc appointment by nature is for a short period and is bound to come to an end when regularly selected person is available. The respondents cannot be said to have faulted when they relieved the applicant on 21.12.91. The applicant had already been noticed in the appointment order that the period of service was till the date a regular incumbent joined. Therefore, no fresh notice was required to be given to the applicant before relieving her.

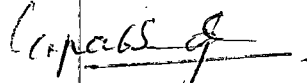
14. As to the cases relied on by the learned counsel for the applicant, it may be stated that their Lordships of Hon'ble the Supreme Court in the case of All Manipur Regular Posts Vacancies Substitute Teachers' Association (supra), had passed the order under its plenary powers. This decision cannot be said to have laid down the law that wherever the incumbents work on ad hoc basis for some period, they are entitled to be regularised. The order was passed in the peculiar facts situation where more than thousand Substitute teachers had been recruited from 1981 to 1982 and they had been allowed to appear before the DPC also. So also the case of Santosh Kumar Sharma (supra) does not assist the applicant. In that case it was clearly directed that the appointment of the petitioners would continue till the regularly selected persons were made available. In the instant case, as already stated, regularly selected persons have been made available to the respondents. Therefore, the ruling does not assist the applicant.

15. The facts of the case of Amar Jyoti v. Kendriya Vidyalaya Sangathan & Ors. (supra) were almost same as the instant case. The Jammu & Kashmir High Court had decided the matter on the basis of the Supreme Court's decision. This matter is to be decided in the light of that case.



16. Having considered the entire material on record, we do not find any case in favour of the applicant. She is neither entitled to appointment as teacher nor regularisation.

17. Consequently, the application is dismissed with no order as to costs.



(GOPAL SINGH)

MEMBER (A)



(G.L.GUPTA)

VICE CHAIRMAN