

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER: 23/4/2002

OA NO. 391/2000.

Rameshwar Prasad Meena son of Shri Surja Ram Meena aged about 33 years, resident of 274B, Jat Ke Kun Ka Rasta, 5th Crossing, Chandpol Bazar, Jaipur. Presently Posted as Trained Graduate Teacher (TGT) (Social Studies).

....Applicant.

VERSUS

1. The Union of India through Secretary, Ministry of Human Resources Development, Shastri Bhawan, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan Head Quarter, 18, Institutional Area, Shahid Zeet Singh Marg, New Delhi.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Jaipur Region, 92, Gandhi Nagar, Bajaj Nagar, Jaipur.
4. Shri V.P. Dhar, Principal, Kendriya Vidyalaya, B.S.F., Anoop Garh, District Sriganganagar.

....Respondents.

Mr. P.P. Mathur, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

Applicant was appointed as Trained Graduate Teacher (Social Studies) vide letter dated 7.11.97 in the pay scale of Rs. 1400-2300. He joined Kendriya Vidyalaya B.S.F. Anupgarh on 12.11.97. He was placed on probation for a period of two years in terms of the conditions in the letter of appointment. His service has been terminated vide respondents' letter dated 18.8.2000 (Annexure A/1). It is this order which has been impugned in this OA.

2. The main ground taken by the applicant to challenge the impugned order is 'malafides' on the part of respondent No. 4, i.e. the Principal of the School, Shri V.P. Dhar. The other grounds is that the order of termination is a non-speaking order which does not disclose any reason to discontinue the applicant in service.

3. In support of his allegation of malafides against the Principal, respondent No. 4, the applicant has narrated some incidents. The first is that though he was allotted government accommodation, which is a quarter belonging to BSF, he was made to deposit the monthly rent with BSF, BSF instead of the administrative channel doing the needful. This is alleged to have caused harassment to him. He is stated to have been discouraged from pursuing with the authorities under the threat of 'spoiling his ACRs.' Respondent No. 4 is also stated to have humiliated the applicant by allegedly using abusive language and derogatory remarks for his belonging to ST community. One particular instance which is stated to have irked the Principal is concerning a scuffle between a teacher, Shri A.L. Yadav and one Shri K.D. Kaviya, Librarian. According to the applicant, when he intervened to pacify the two, Shri Yadav got annoyed and manhandled the applicant and his wife. The matter was brought to the Principal's notice and he was requested to lodge FIR with

the Police. The Principal turned the applicant back and took no action. The applicant, then claimed to have represented against the Principal by writing to Respondent No. 2 on 29.3.2000. On the same day, he also lodged an FIR regarding this incident.

4. The applicant has also made a reference to a charge sheet for alleged misbehaviour with the Principal which was issued to him on 22.6.99 under Rule 16 of CCS (CCA) Rules, 1965. This action is assailed for the reason that the Principal acted as judge in his own case. Principal himself issued the charge sheet and decided the case finally.

5. The applicant has quoted some facts and figures to establish that his performance as a teacher was a very high order and that it was his efforts which resulted in highly commendable performance of students of the classes, he taught. For his achievements in bringing awareness regarding 'Environment Protection', he received 'Paryavaran Dronacharya Award'. With such recognition, the applicant claims that there could have been no reason for dispensing with his services but for the prejudice and bias on the part of the Principal, Shri V.P. Dhar.

6. The respondents, in their reply, have strongly rebutted the assertions of the applicant in respect of his claims of being an outstanding teacher and have totally denied any bias or malafides on the part of the Principal. The impugned order has been defended by stating that the applicant was on probation for a period of two years in terms of the conditions as stipulated in the letter of appointment. During this period, his performance was naturally required to be watched and monitored. In the event he was found lacking, the terms of his appointment also provided for extending the period of probation. He could be confirmed only after successful completion of probation. The offer of appointment stipulates that during the probation and until he is



the Principal, he had to lodge a report of the events to National Commission for SC/ST. While advertizing to the case of disciplinary action against the applicant, relating to an incident of March, 1999, the learned counsel submitted that the entire proceedings in that case were illegal and were vitiated for the reason that the Principal acted as a Judge in his own case. He himself was the interested party and he charged the applicant of misbehaviour with him. The final decision in the case was also taken by him. He assailed this action as violative of the principles of natural justice by quoting 'Nemo debet esse judex in propria causa.'

9. Learned counsel for the respondents, Shri V.S. Gurjar, emphatically denied that the impugned order is arising of any malice or bias on the part of the Principal, Shri V.P. Dhar. He placed before us complete record of the applicant's service in the KVS. He mentioned that much has been made about the incident of March, 2000 which was a scuffle involving two individuals where the applicant himself chose to get involved. Since the incident had taken place outside the school premises, the Principal on his considered judgment, wanted the matter to cool down. It was infact the applicant, who insisted on lodging an FIR which later he himself did after a number of days had elapsed. Shri Gurjar mentioned that the performance of the applicant had necessarily to be watched and monitored by the Principal, as being Head of the School and there was no other way for the Assistant Commissioner to have any other independent available. He mentioned that at the time of the incident of scuffle between K.D. Kaviya and A.L. Yadav, the applicant was already under extended probation. The two years period of probation was over on in November, 1999 and the same was extended for one year i.e. upto October, 2000. The performance of the applicant during the extended period was also not found satisfactory and in terms of the conditions indicated in the letter of appointment, the applicant's services were terminated.

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confirmed, the services could be terminated by giving one month's notice without assigning any reason. The impugned order dated 18.8.2000 has been passed by the competent authority and cannot be faulted with as it conforms to the conditions laid down in the letter of appointment dated 7.11.1997.

7. While referring to the incidence of scuffle between the staff members of the school in March, 2000 and the charge sheet issued against the applicant for his alleged misbehaviour with the Principal, the respondents have categorically asserted that these had no bearings whatsoever with the termination of the applicant's services during the probation period.

8. Learned counsel for the applicant, Mr. P.P. Mathur, argued at great length to primarily emphasise that the services of the applicant have been dispensed with at the instance of the Principal, Mr. V.P. Dhar, respondent No. 4, who was biased against the applicant. At the outset, he stressed that though the order of termination was an order <sup>in</sup> simplicitor, the Tribunal could lift the veil to see the real cause of termination of a probationer's service. He cited the following decided cases to lay a stress that the impugned order, there is more to it than meets the eye. (a) AIR 2000 SC 1706 (b) AIR 1999 SC 609 (c) AIR 1999 SC 983 (d) 1987(2) ATC 379 (Jodhpur) (e) 1992(22) ATC 129 (Delhi) (f) 1989(9) ATC 336 (Patna) and (g) 1987 (4) ATC 641 (Jabalpur). He strongly urged that the report in respect of performance of the applicant sent to the Assistant Commissioner, KVS, which resulted into termination of the applicant's services should not have been relied upon by the Assistant Commissioner for the impugned order. The Principal, according to the learned counsel, should not have been permitted to be involved in the entire process of judging and monitoring the performance of the applicant and the Assistant Commissioner should have made his own independent assessment. Shri Mathur also mentioned that since the applicant was being harassed by

the Principal, he had to lodge a report of the events to National Commission for SC/ST. While advertizing to the case of disciplinary action against the applicant, relating to an incident of March, 1999, the learned counsel submitted that the entire proceedings in that case were illegal and were vitiated for the reason that the Principal acted as a Judge in his own case. He himself was the interested party and he charged the applicant of misbehaviour with him. The final decision in the case was also taken by him. He assailed this action as violative of the principles of natural justice by quoting 'Nemo debet esse judex in propria causa.'

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10. We have given our anxious consideration to the rival contentions. We have also carefully gone into all the records made available to us by the learned counsel on either side in addition to what has been stated in the OA by the applicant and the reply of the respondents.

11. There is no doubt, that with the facts and circumstances of any case the courts can lift the veil to see the real cause beyond the impugned order to see whether the motive for the same was coloured by the malafide intentions on the part of authorities, who either issued the said order or influenced the said order with some ulterior motive or purpose. In the instant case, for the reasons which we are going to discuss in the succeeding paragraphs, it does appear to us that there is no thick veil covering the real motive behind the order of termination of the applicant's services. In fact, we have not found even a shred of evidence which could be considered to have caused any prejudice in the mind of the Principal against the applicant.

12. The applicant has attempted to build a case that Shri V.P. Dhar was prejudiced against him from the very beginning. This he says for the reason that his joining was delayed by him. We are amazed at this suggestion that a person would develop a bias against another even before they have met. Right here itself we consider it relevant to advert to the applicant's own averments in his reply to the charge sheet issued to him for alleged misbehaviour with the Principal and which is filed as Annexure A/6. He has referred to various events organised by him in the years 1998 and 1999 and has acknowledged that for his contributions in these events, the Principal had praised him in open meetings and in staff meetings. Of course, at the same time, he has also alleged that the Principal was biased against him for his belonging to ST Community. There is an obvious contradiction in terms. The applicant has now tried to highlight that the disciplinary action taken by the Principal against him in March, 1999 was illegal as the Principal acted as a judge in

his own case. This is not relevant for the purpose as the charge had arisen out of an alleged specific incident, the proceedings of which are not the issue before us. The applicant was let off with a warning. In any case, this cannot even remotely be suggested that this was indication of bias. If a superior authority notices any unacceptable conduct against an employee, he cannot but initiate a punitive/corrective action. If every action of this nature is given the colour of bias, then there can be no way of maintaining any discipline in any Organisation.

13. Much has been made of this incident of scuffle between one Shri Kaviya and Shri A.L. Yadav. The applicant got involved in that quarrel ~~on~~ his own and then tried to put the onus on the Principal for lodging an FIR against Shri Yadav, with the Police. We have not been able to appreciate the rationale of this insistence on the part of the applicant to involve the Principal in an incident which happened outside the school, though between the two staff members of the school. It was open to the applicant or the feuding persons to lodge a report with the Police. It is totally in explicable to us as to how Principal not taking any action to report to the Police in this matter reflected any bias on his part against the applicant. The applicant chose to get involved in that quarrel himself. It is interesting to note that the scuffle took place on 11.3.2000 but the applicant himself lodged the report with the police on 29.3.2000.

14. We are intrigued at the ground raised by the learned caused for the applicant that the Principal should not have been permitted to involved in monitoring the working of the applicant and any report from the Principal regarding the performance of the applicant should not have been acted upon as the Principal was biased. To say the least, we are amazed at his suggestion. Pray, who else but the Principal can monitor the performance of teachers working under him. What other mechanism is available in a KVS, which would directly



enable the Assistant Commissioner to make his assessment independent of the Principal. We see absolutely no rationale or logic in this argument of Mr. P.P.Mathur. He has stated that the applicant also had to report about the biased behaviour of the Principal to the National Commission of SC/ST. We find the date of this report is 4.9.2000. It is significant to mentioned that by this date, services of the applicant had already been terminated. The impugned order is dated 18.8.2000.

15. It is obvious from the above that the allegation of malafide against the Principal is an afterthought and has merely been stated to be rejected for the above mentioned reasons. This ground is without any foundation. Facts clearly reveal that the performance of the applicant during the initial period of two years was found wanting. The probation period was extended by another one year vide letter dated 15.10.99. His services were terminated vide the impugned order which is a letter simpliciter. He was paid one month's pay in lieu of notice, as per terms in the letter of appointment. On the date the impugned letter was issued i.e. 18.8.2000, the applicant was still under probation.

16. For all the above reasons, we find no infirmity in the action of the respondents and in the impugned order. We, therefore, dismiss this OA, as having no merits. The parties are left to bear their own costs.

J.K. KAUSHIK

(J.K. KAUSHIK)  
MEMBER (J)

A.P. NAGRATH

(A.P. NAGRATH)  
MEMBER (A)