

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR

Original Application No. 186/2004

Gwalior, this the 4th day of April, 2005

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

1. Laxman Prasad, S/o late Shri Ramswaroop
aged 29 years, posted as Mess (Kitchen)
Sweeper Kendriya Vidyalaya No.1 Gwalior
R/o Near Wali Mata, Chandrabadni Naka,
Laskar, Gwalior,
2. Naresh Bahadur Rai, S/o Shri Amar
Bahadur Rai, aged 31 years, Posted
as Head Cook, Kendriya Vidyalaya No.1,
Gwalior R/o Sakhila Vilas, Jhansi Road,
Gwalior.
3. Ashok Kumar Gupta S/o Shri Moti Lal Gupta
aged 43 years, posted as Mshalchee Kendriya
Vidyalaya No.1, Gwalior R/o Lakka khana,
Kanghi Wali Gali, Laskar, Gwalior.
4. Pramod Kumar S/o Shri Hemraj Podal,
aged 28 years, posted as Assistant Cook,
Kendriya Vidyalaya No.1 Gwalior R/o Kendriya
Vidyalaya No.1, Campus, Gwalior.

APPLICANTS

(By Advocate - Shri D.P. Singh)

V E R S U S

1. Union of India through,
its Secretary, Department
of Human Resources
Development, Shastri Bhawan,
New Delhi.
2. The Commissioner
Kendriya Vidyalaya Sangathan
Saheed Jeet Singh Marg,
New Delhi.
3. The Asstt. Commissioner
Kendriya Vidyalaya Sangathan
Tegore Nagar, University Road,
Thatipur-Gwalior.
4. The Principal, Kendriya
Vidyalaya No.1, Gwalior

RESPONDENTS

(By Advocate - Shri Arun Katare)



O R D E R (ORAL)

By Madan Mohan, Judicial Member -

By filing this OA, the applicants have sought the following main reliefs :-

"i) That if any order passed by the respondents with regard to termination of the service of the applicants, the same may be liable to be quashed.

ii) That, the respondents be directed to allow to continue the applicants by treating them as permanent employees and grant salary continuously."

2. The brief facts of the case are that the applicants four in number were appointed as Mess(Kitchen) Sweeper, Mess(Kitchen) Masalchi and Mess(Kitchen) Assistant on different spells of time i.e. on 11.8.90, 5.7.95 and 7.7.1995 after following the due procedure of selection. They have filed a Writ Petition No.1669/98 before the Hon'ble High Court of M.P. for their regularisation. The aforesaid W.P was transferred by the High Court in the Central Administrative Tribunal as TA No.01/2001. The Tribunal has decided the aforesaid TA vide order dated 9.11.01. Thereafter, the respondents have filed a Writ Petition No.283/2002 against the aforesaid order of Tribunal dated 9.11.01. It was admitted and the order of the Tribunal dated 9.11.01 has been stayed by the Hon'ble High Court of M.P. Accordingly to the applicants, the Hon'ble High Court of M.P. has stayed the operation of the order of the Tribunal dated 9.11.01 only with regard to regularisation of the services of the applicants. Even though without taking note of this fact, the respondent No.4 has restricted the applicant and not permitted them to work without assigning any reason. The applicants were posted in the department since long time and they were granted status of permanent employee. The respondents without considering the aforesaid facts, discontinued the services of the applicants with prejudice manner. Hence, they have filed this OA.



3. Heard the learned counsel for the parties.

4. The learned counsel for the applicants argued that al-though the applicants were appointed by the respondents after following the due procedure of the selection and the appointments letters were issued to them in writing, their services were terminated without passing any order in writting. He further argued that the applicants were not given any opportunity of hearing and even no show cause notice were given to them. The services of the applicants have been terminated by the respondents orally while it is against the rules and law. The learned counsel for the applicants has drawn our attention towards the judgement of Hon'ble High Court of M.P. in the case of Vinod Kumar Dwivedi Vs. Union of India & Ors. 2002(4) M.P.H.T.394.

5. In reply, the learned counsel for the respondents argued that the applicants were engaged as daily rated employee and in absence of sanctioned post the applicants could not continued and their services were not required for want of work so their engagement has been discontinued. He further argued that the capacity of the sport hostels students was 60 and hardly 30 sport students were available in the mess and this strength is reduced from time to time so to continue the engagement of the applicants was not feasible for want of sanctioned posts and the work. They continued to work till the work was available. The engagement of the applicants is not longer required. Hence, the respondents have rightly discontinued the services of the applicants and the action taken by the respondents is legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the respondents have not denied this fact that the applicants were engaged by the respondents after following the due procedure of the



selection and the appointment letters were issued to them in writing . However, their services were terminated orally. The respondents could not show any order regarding termination of their services. We have perused the the judgement cited by the learned counsel for the applicants in the case of Vinod Kumar Dwivedi(Supra) inwhich the Hon'ble High Court has held as under :-

"(1) Service Law- Cancellation of appointment- Petitioner was selected for the post of Constable after a detailed selection process- He was asked to join at Central Industrial Security Force(CISF) Recruitment Training Centre for training for 11 months He joined training centre on 18.6.2000- But, from 28.6.2000 he was not permitted to continue his training- He was not given anything in writing-Hence, this writ petition- Held- Petitioner was given appointment order in writing - It conferred a right upon him to continue on the post- There could not be an oral order terminating the services of the petitioner- An oral order is of no legal value - Before cancellation of an appointment order, an opportunity of hearing should be given - The appointment order will hold good- Petition allowed"

We find in the aforesaid judgement, the Hon'ble High Court has mentioned several other judgements of the Hon'ble Supreme Court as well as the Judgmet of Hon'ble High Court of M.P.

7. In view of the aforesaid ruling of the Hon'ble High Court of M.P., the OA is partly allowed. The respondents are directed to permit the applicants to continue on their posts. However, the applicants are not entitled for back wages or salary The aforesaid direction shall be complied by the respondents within a period of 2 months from the date of receipt of a copy of this order. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman