

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No. 539/04

Jabalpur, this the 9<sup>th</sup> day of February, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman  
Hon'ble Mr.Madan Mohan, Judicial Member

Anand Kumar Shrivastava  
S/o Late Shri Parmeshwari Prasad Shrivastava  
R/o L.C.H. No1, NCL Colony  
Singrauli, Dist. Sidhi (M.P.)

Applicant.

(By advocate Ku.P.L.Shrivastava)

Versus

1. Commissioner  
Kendriya Vidyalaya Sangathan  
New Delhi.
2. Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Jabalpur.
3. Principal  
Kendriya Vidyalaya  
Singrauli,  
Dist.Sidhi (M.P.)

Respondents.

(By advocate Shri M.K.Verma)

ORDER (oral)

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:


- (i) Quash the order dated 8.3.2002 (Annexure A4) as also the order dated 4.4.03 (Annexure A12) and declare them as illegal and direct the respondents to reinstate the applicant with full back wages.
- (ii) Direct the respondent No.3 to release the salary of the applicant for the period between April 2002 to January 2003.

2. The brief facts of the case are that the applicant applied for the post of PGT as per the advertisement published by the Principal of Kendriya Vidyalaya, Singrauli, Dist. Sidhi on 1.7.2001. Interview was held on 9.7.2001. Out of 8 candidates, only the applicant was selected for the post by the selection committee (Annexure A1 is the appointment order). He joined on 3.8.2001 and was allotted quarter No.LCH-01 of NCL Colony, Singrauli vide order dated 6.11.2001 (Annexure A2). Subsequently, an order dated 8.3.2002 was issued terminating the services of the applicant without assigning any reason as also in violation of the principles of natural justice as no opportunity of hearing was given nor was he given any show cause notice (Annexure A4). The termination order was kept in abeyance and not served on the applicant and again an appointment order dated 22.7.002 was issued (Annexure A5). Applicant's service was taken even after the termination order. The applicant was not paid salary for the period between April 2002 to January 2003. Though the applicant made a representation for releasing his salary (Annexure A7), no action was taken on his representation. The Principal was forcing the applicant to vacate the quarter. The applicant met the Chairman, Kendriya Vidyalaya who directed the Principal not to dispossess the applicant from the quarter and to pay the balance amount of salary to the applicant (Annexure A8). The Principal prevented the applicant from discharging his duties. The applicant filed an OA No.89/2003 which was disposed of by the Tribunal directing the respondents to decide the representation of the applicant and also stayed the eviction of the applicant till the representation was disposed of. According to the applicant, his representation was not disposed of by a speaking order. Hence the OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant was duly appointed by the respondents and issued appointment order (Annexure A1). Even though the applicant worked with total dedication and devotion, he was not paid salary for the period from April 2002 to January 2003 in spite of several requests made


in that behalf. Our attention is drawn to Annexure A3 in which it is mentioned that the institution will bear 80% and the students will bear 20% of the salary of the teachers concerned. Hence the respondents cannot say that they have no funds to pay the salary to the applicant for the period in question. The learned counsel further argued that the said quarter was duly allotted to the applicant by the respondents and they have no right to pass the order of vacation and the impugned order passed by the respondents (Annexure A12) is apparently against rules and laws. The respondents have not produced the original appointment letter or the experience certificate which is alleged to have been fabricated by the applicant. Hence the whole action of the respondents is illegal and unjustified and the applicant is entitled for the reliefs claimed.


4. In reply, the learned counsel for the respondents argued that the applicant has been appointed on contractual basis on payment of Rs.60 & 70 per period for teaching spoken English for classes VI to XII depending upon the need and it was made clear to him at the time of initial appointment itself that the assignment is purely of day to day nature and confers no right of appointment or his placement in cadre of teachers. The applicant had accepted the offer contained in Annexure R1 of the scheme. Therefore the applicant cannot claim parity as to the regular teacher appointed through all India basis advertisements. During the period of his time tenure between 3.8.2001 to 15.4.2002 he was paid at the specified rate from the collection raised from the students from Vidyalaya Vikas Nidhi. During the period from 19.4.2002 to 4.5.2002 there were no children who wanted to attend English speaking course. Hence the question of payment for that period does not arise. The authorities of Northern Coalfields Limited, Singrauli have permitted the applicant to occupy their quarter and about which they have nothing to say. The quarter was allotted to the applicant to enable him to reside in Singrauli during his purely temporary duty at the Vidyalaya. Hence the action of the respondents is perfectly legal and justified. The OA deserves to be dismissed.



5. After hearing the learned counsel for the parties and carefully perusing the records, we find that in the appointment letter (Annexure A1), it is mentioned that "in order to supplement the teaching in this Vidyalaya, it has been decided to utilize your services for taking a few periods in certain classes. In case you are willing to offer your services on the terms and conditions mentioned below, you are requested to start teaching VI to XII classes." It is clear that by this appointment letter, the applicant has not been appointed as a regular teacher. The argument advanced on behalf the respondents that the applicant was appointed on contractual basis at the rate of Rs.60 & 70 per period depending upon the need seems to be correct. Admittedly, for the period between 3.8.2001 to 15.4.2002, the applicant was paid at the specified rate, but thereafter, he has not been paid as there were no children who wanted to attend English speaking course. We have perused Annexure A3 which seems to be a mere pamphlet. This is neither a letter nor an order issued by the respondents. We have also perused Annexure R1 dated 24<sup>th</sup> April 2000 in which in para 9 it is specifically mentioned that "payment will be made from the Vidyalaya Vikas Nidhi and only on non-availability of funds in it, from the school fund." The applicant cannot say that his salary is to be paid from the Consolidated Fund of <sup>Government of</sup> India from which it is legally paid to Government servants. Hence the applicant does not come within the definition of Government servants. In the case of the applicant, no enquiry or show cause notice is legally required

6. After considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman