

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No 431 of 2003

Jabalpur, this the 26th day of September, 2003.

Hon'ble Mr. G. Shanthappa, Judicial Member

Krishna Murari Raikwar
Son of Shri Makkhan Raikwar,
aged about 39 years, resident of
Ramkhiriya Panna, M.P.

APPLICANT

(By Advocate - Shri Anil Mishra holding brief of
Shri Shashak Shekhar)

VERSUS

1. Union of India,
through the Secretary Ministry
of Human Resource
Development New Delhi.
2. Jawahar Navodaya Vidyalaya
Samityi, through Director,
(Ministry of Human Resources
Development Department of
Education), A-39, Kailash
Colny, New Delhi.
3. The Deputy Director, Navodaya
Vidyalaya Samiti, Regional
Office :- 160, Zone -II, M.P.
Nagar, Bhopal-4620011(M.P.).
4. The Principal Jawahar
Navodaya, Vidyalayas Samiti
District Ramkhiriya, Panna,
(M.P.)

RESPONDENTS

(By Advocate - Shri O.P. Namdeo)

O R D E R

The applicant has filed the above O.A seeking four
reliefs as follows :-

- (1) To issue a writ in the nature of certiorari for
quashing of office memo/order dated 28/3/2003.
- (2) The amount deducted from the salary of applicant
be also declared as bad in eyes of law and same
be refunded back to the applicant with interest.
- (3) To call for record on the basis of which order
impugned has been passed, for kind perusal of
the Hon'ble Tribunal.
- (4) Any other order or direction deemed just and po
proper in the circumstances of the case may also
be issued to give relief to the applicant.



2. Shri Anil Mishra representing Shri Shashank Shekhar advocate for the applicant submits, the applicant is a temporary employee working as watchman since 18.11.1996 in the office of the respondent-4. As on today he is working as Chaukidar on daily wage basis. On 20.9.98 the applicant submitted a representation as per Annexure-A-5 to the respondents for regularisation of his services. When the respondents did not take decision on the said representation, he move to Tribunal in O.A. No. 821/99 seeking the prayer for direction to the respondents to regularise his service as Chaukidar ^{and} for he has been working on daily wages since 1996. This Tribunal disposed of the said OA directing the respondents to consider the ^{grievance of the} applicant for regularisation in Group-D post subject to his ^{of} being confirming to the eligibility criteria and availability of the post (order dated 6.3.2002 as per Annexure-A-6).

3. The applicant was posted at Jawahar Navodaya Vidyalaya Ramkhiriya, Panna. When he was working at the said place, it was on the night intervening ^{on} 25.3.03 and 26.3.03, there was a theft of Colour T.V. which belongs to the said office. The applicant admits, that he was working at that time and there was no sign of any breakage of lock or door or window. It is admitted that a Colour T.V. was kept in Wisdom Hall situated in the said premises, which was missed. For the said incident, Seema Sarathe a teacher of the 4th respondent had filed a complaint to the local police and the said complaint is under investigation, the applicant was put under enquiry by the police. The applicant further submitted that, he has not committed theft of T.V. One Bharat Lal and Kali Charan, the student^s of the 4th respondent were committed theft and they were caught.

4. The applicant further submits, without issuing notice and without hearing the applicant, the respondents have issued an order dated 28.3.2003 as per Annexure-A-1, for recovery of Rs.500/- per month from the salary of the applicant. Further submitted, before issuing the impugned order,

the enquiry was not conducted, hence the action of the respondents is illegal, discriminatory and contrary to the norms of the service jurisprudence hence the said order is liable to be quashed.

5. The respondents have relied on the reply statement and argued, that the impugned so call order is not an order, which is a show cause notice. So far no recovery as alleged is made from the wages of the applicant. Voluntarily, the applicant has paid the amount of Rs.500/- per month from April 2003 to Aug. 2003. Absolutely there is no order or recovery by the respondents. Along with the reply, the respondents have filed compliant Annexure-R-6 and FIR. In the FIR , there is a column 9, which refers the value of the T.V. is Rs. 4200/-. It is further argued, that the OA does not survive since there is no cause of action, and no order for recovery as alleged by the ^{respondents} applicant and OA is liable to be dismissed.

6. The advocate for the applicant has admitted some facts ~~facts~~ and documents filed by the applicant and the respondents ^{CF.} The admitted facts are :-

- (1) The impugned order at Annexure-A-1 is a show cause notice
- (2) The applicant is paying monthly Rs. 500/- voluntarily to the respondents and there is no recovery from the respondents.
- (3) The applicant has not submitted reply to the show cause notice at Annexure-A-1.
- (4) Para 4.11 and 4.12 of the OA and reply to para 4.12 of the reply are also admitted.
- (5) Cr. No. 30/03 filed by the police Banpur, Panna Distt. is under investigation
- (6) Order dated 6.3.2002 in OA No. 821/99 of this Tribunal does not relates to the present case.

7. I heard the argument of the advocate for the applicant and standing Counsel for the respondents. I have taken the assistance of both advocates to know the subject matters

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of the Hindi documents. There is no contrary statement on the documents which are in Hindi Language.

8. On the admitted facts by both sides, this application is liable to be dismissed as premature.

9. The show cause notice at Annexure-A-1 was issued, for that, the applicant has ^{not} submitted reply. The applicant has voluntarily paid the amount of Rs. 500/- per month and for which there is no order from the respondents to recover the amount as alleged, complaint against the applicant is under investigation. After hearing the arguments from both sides, perusal of the pleadings and documents, I am of the opinion that, the applicant has not made out his case for grant of reliefs as prayed for. I consider there is no cause of action. Hence O.A. is dismissed. There is no order as to costs.

G. Shanthappa 26/9
(G. Shanthappa)
Judicial Member

SKM

पूरांकन सं जो/व्या.....जबलपुर, दि.....

पं. नि. नि. नि. अ. अ. अ. अ. अ.

- (1) कतिपय जमानतदारों को जमानत जबलपुर
- (2) कतिपय जमानतदारों को जमानत जबलपुर
- (3) कतिपय जमानतदारों को जमानत जबलपुर
- (4) कतिपय जमानतदारों को जमानत जबलपुर

S. Shekhar Achar
OP Namdeo Achar

Budhram
29.9.03

Issued
29/9/03