

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 666/2003

Jabalpur, this the 3rd day of September, 2004

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

Mrs. A.M. Tamboli
W/o Shri M.Y. Tamboli
Aged 61 years
Retired Home Science Teacher Grade I
Kendriya Vidyalaya No.1,
G.C.F. Estate, Jabalpur
R/o Flat No. A-1, Prestige Homes,
South Civil Lines,
Jabalpur (M.P.)

APPLICANT

(By Advocate - Shri B.da.Silva)

VERSUS

1. Commissioner
Kendriya Vidyalaya Sangathan
New Delhi.
2. Assistant Commissioner/
Regional Officer,
Kendriya Vidyalaya Sangathan
Regional Office, G.C.F. Estate,
Jabalpur.
3. Principal
Kendriya Vidyalaya No.1
Gun Carriage Factory,
G.C.F. Estate,
Jabalpur (M.P)

RESPONDENTS

(By Advocate - Shri M.K. Verma)

ORDER

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

- "I. to quash the order dated 9.9.2003 after holding the same to be bad in law, arbitrary, malafide and vindictive.
- II. to hold and direct that the applicant is entitled to Leave Encashment of 248 days instead of 190 days.
- III. to hold that the applicant has rendered 39 years one month and 22 days of service and the same is to be counted as qualifying service.
- IV. to quash the order dated 19.9.2002 (A-1) to the extent of qualifying service as mentioned in the order and uphold (Annexure A-4) as the correct determination of qualifying service and leave encashment."



2. The brief facts of the case are that the applicant joined Kendriya Vidyalaya Sangathan (for short 'KVS') on 10.8.1963 as a Home Science Teacher Grade-I at Lonavala (Maharashtra). On 7.5.1967 she was transferred to Kendriya Vidyalaya, Jabalpur. She has retired on attaining the age of superannuation on 30.9.2002. The main grievance of the applicant is that the respondents had paid her leave encashment for 190 days only whereas she was entitled for payment of leave encashment of 248 days. She has also stated that she had completed more than 39 years of qualifying service, whereas the respondents have reflected her qualifying service in the Pension Sanction Order as 35 years, 4 months and 21 days. and thus, the respondents have not taken into account nearly 4 years service. According to the applicant, the Ministry of Education had taken a decision to impart training to untrained teachers working in Kendriya Vidyalayas through a summer school-cum-correspondence courses at Regional College of Education, Bhopal. In this regard a circular dated 10.3.1967 (Annexure-A-3) was issued. The applicant had availed the facility mentioned above by undertaking the course in the summer of 1968 and 1969. The total period of the training course was 100 days during summer vacation. The said circular specifically provided that the teachers joining the course would be treated as on duty, therefore, they would be entitled to leave in lieu of the duty. Thus, the applicant is entitled to 3/5th of 100 days as leave for the period she had undertaken the course. Since the respondents had not given this benefit to her, she had earlier approached the Tribunal by filing OA No.4764/2002 and the Tribunal disposed of the said OA vide order dated 26.3.2003 directing the respondents to decide the case of the applicant within two months. As the respondents failed to act within the stipulated time, a CCP No.45/2003 was filed in the Tribunal. The respondents thereafter had issued the impugned order

dated 9.9.2003 rejecting the case of the applicant arbitrarily on misconceived facts and grounds. Hence this OA.

3. The respondents in pursuance of the direction given by the Tribunal in OA 761/2002 dated 26.3.2003 have passed the order dated 9.9.2003 rejecting the claim of the applicant. While rejecting the claim of the applicant, they have taken the ground that on verifying the service record of the applicant it is found that the applicant was appointed as Home Science Teacher w.e.f. 10.8.1963. She was declared to have completed her probation successfully vide KVS letter dated 18.10.1966. She was appointed in substantive capacity w.e.f. 1.4.1966. The fact that her services have been confirmed clearly shows that she has acquired the eligibility and the qualification prescribed for the post and hence no more prosecution of studies or acquisition of training is required. Even if sufficient evidence is available that she attended inservice course and the relevant entries were recorded and duly attested in the service book, the fact that she is not entitled to Earned leave for the summer vacation 1968 and 1969 remains as elucidated below-

"Smt.A.M.Tamboli joined the summer school-correspondence course during 1968 and 1969 offered by Regional College of Education, Bhopal on her own and in her own interest. She was appointed to impart vocational subject for which the degree in training i.e., B.Ed. is redundant while it is mandatory for categories of teachers teaching Hindi, English, Maths, Science and Sanskrit. Even today professional qualification degree or diploma is the requisite qualification for the teachers teaching non-vocational subjects.

When it was not mandatory for her to acquire the training in teaching she attended on her own and therefore she is not entitled to the proportionate earned leave for summer vacation. Therefore, the action of the Audit and Accounts department reducing the inadmissible Earned Leave from 248 days to 190 days is in order.

Thus it is once again reiterated that Smt.A.M. Tamboli, Home Science Teacher (Retd) is not entitled for credit of Earned Leave for undergoing B.Ed. course during summer vacation in 1968 and 1969.".

4. We have carefully considered the arguments advanced on behalf of both the sides.



5. We find that a similar issue has been considered by this Tribunal in the case of Daya Shanker Lakhera Vs. Principal, Kendriya Vidyalaya No.1, STC Cantonment, Jabalpur and others, O.A. No. 211 of 2000 decided on 12.2.2004. In the said case the applicant Daya Shanker Lakhera was working as Physical Education Teacher in Kendriya Vidyalaya. and had undertaken the B.Ed Correspondence course from the Regional College. He was granted the benefit of earned leave but due to audit objection the amount was recovered. The Tribunal has quashed the order of recovery in the said case and allowed the OA. We also find that the qualification of B.Ed. was also not mandatory for the Physical Education Teacher as in the present case. In this view of the matter we are of the considered view that the present case is fully covered by the aforesaid decision of the Tribunal in the case of Daya Shanker Lakhera (supra).

6. In the result, the OA is allowed. The impugned order dated 9.9.2003 is quashed and set aside. The respondents are directed to grant the benefit of earned leave to the applicant in terms of the circular dated 10.3.1967 and grant her all consequential benefits within a period of three months from the date of communication of this order. No costs.


(M.P. Singh)
Vice Chairman

rkv.

कृतिकान सं ओ/न्ता.....जबलपुर, दि.....
परिविलिवि वार्षिकीय -

(1) संचित, राज्य विद्यालय वार्षिकीय, जबलपुर
Shri B. Basu
(2) अधिकारी, विद्यालय वार्षिकीय, के कार्यालय
Shri C. K. Verma JHC TBP
(3) अधिकारी, विद्यालय वार्षिकीय, के कार्यालय
Shri C. K. Verma
(4) विद्यालय वार्षिकीय, जबलपुर के विभ
सूचा द्वारा विद्यालय वार्षिकीय
उप रजिस्ट्रर

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