

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Transfer Application No. 53/1999

Jabalpur, this the 6th day of August, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Smt. Aruna Sareen wife of
Retd. Ltd. Col. R.C. Sareen, aged
about 54 years, Principal
Kendriya Vidyalaya No. 1, Ordinance
Factory Khamaria, Jabalpur (MP) and
presently residing at 311, Napier
Town, Opposite Anand Cinema,
Jabalpur (MP)

APPLICANT

(By Advocate - Shri M.B. Shrivastava)

VERSUS

1. Kendriya Vidyalaya Sangathan,
Headquarters at 18, Institutional
Area, Shahid Jeet Singh Marg,
New Delhi through its
Commissioner.
2. Officiating Assistant Commissioner
Kendriya Vidyalaya
Sangathan, G.C.F. Estate, Behind
Kendriya Vidyalaya No. 1,
Jabalpur.
3. The Secretary, Ministry of
Human Resources Development,
Shastry Bhawan, New Delhi.

RESPONDENTS

(By Advocate - Shri M.K. Verma)

O R D E R (ORAL)

By J.K. Kaushik, Judicial Member -

Smt. Aruna Sareen has filed this Original
Application directly assailing an order dated 29/30.10.98
(Annexure P/10) by which the applicant's HRA and
Transport Allowance has been stopped on October 98
onwards from her salary and she was directed to refund
the amount of Rs. 37,664/-

JK

2. The brief facts of this case are that the applicant was initially appointed as Primary Teacher in Kendriya Vidyalaya Sangathan on 7.10.1965. She enjoyed her due promotions and became Principal. She was transferred on her request to Jabalpur at Kendriya Vidyalaya No. 1 Ordnance Factory, Khamaria on 2.8.1995 and she was allotted accommodation Qr. No. D/1 (Type IV) vide allotment order of dated 24.8.95. while holding post/Principal. It has also been averred this accommodation was meant for the occupation of Principal. Subsequently she got shifted to house his husband/ which is house No. 311, Napier Town, Opposite Anand Cinema, Jabalpur. Her mother-in-law was very serious at that time and also died in Military Hospital in the year 1996. After some time said accommodation was allotted to Shri R.L. Ansinker. Subsequently she also vacated the said accommodation, immediately thereafter it was taken over by Garrison Engineer Khamaria for annual maintenance. It has also averred that the accommodation was badly damaged, and remained under repair. The damage was quashed before the earth-quake.

3. It seems that there was an audit objection to the effect that the said accommodation was an earmarked quarter for the Principal and same could neither have been kept vacant nor allotted to some one else. Therefore the recovery was proposed to be made against the applicant for an amount of Rs. 37,664/-

4. The Original Application has been filed on number of grounds mentioned in the Original Application. The letter dated 14.12.2000 was subsequently passed in the matter and the same is taken on record and made part of the records of this case.

Q

: 3 :

5. The respondents have contested the case and countered the facts and ground in the Original Application in general since there has been substantially change in the matter, we do not find any necessity for decide this case on merit. A short rejoinder has also been filed to the reply to OA.

6. We have heard the learned counsel for the parties and have carefully perused the records of this case.

7. At the very out set, the learned counsel for the respondents have very fairly submitted that a copy of an order dated 14.12.2000, which provides for the relief to the applicant. He has submitted that all the reliefs prayed in this OA have already granted to him. Para 2 & 3 are relevant and contents thereof are extracted as under :-

2. The matter has been examined and it has been decided that on request of a Principal who does not want to occupy the earmarked accommodation and desired to stay in his/her own house in the same station the earmarked accommodation should be allotted to officers in identical status or next below in rank i.e. to the Vice-Principal or equivalent. The officer so allotted the earmarked accommodation will have to vacate the same whenever a new Principal joins and wants to have the earmarked accommodation. In that case arrangement for an alternative accommodation will not be Sangathan's or Regional Office's or Kendriya Vidyalaya's responsibility. Until such time the earmarked accommodation remains unoccupied, the Principal, thus residing in his/her own house will not be allowed to draw House Rent Allowance.

3. It has also been decide that cases wherein Principals have stayed in thier own houses and did not occupy the earmarked accommodation and continued to draw HRA unauthorisedly may be considered as closed. The commissioner as a special case has been kind enough to invoke the powers vested in him towards relaxation in rules, for condoning the recovery of HRA so drawn with specific stipulation that from 01-01-2001 the provision of rules in this regard will be enforced strictly and uniformly. However the recoveries already made will in no case be refund.

8. The learned counsel for the respondents has submitted that the controversy involved in the present stands resolved

Dr /

: 4 :

with the aforesaid direction/decision. He has also submitted after the issuance of this order, complete retiral dues of the applicant have already been released and as per his information and therefore the very Original Application has become infructuous.

9. On the contrary the learned counsel for the applicant fully subscribes to the above development and the law position except that he does not agree as regards to the release of all the retiral dues of the applicants. He has submitted that as per his information the payment of DCRG has not been released so far and the impugned order has still not been withdrawn.

10. We have considered the aforesaid submission made on behalf of the parties. The learned counsel for the respondents has submitted that there may be some communication gap and appropriate order may be passed in this OA. We dispose of the OA as under :-

8. In view of the order which is subsequently passed on 14.12.2000, the Original Application has become infructuous and Annexure P/10 stands quashed. It is also directed that in case any dues regarding DCRG etc. which is still not released, the respondents shall release the same within the period of 2 months from receipt of copy of this order. The OA stands disposed of. No costs.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.N. Kaushik
(J.N. Kaushik)
Judicial Member