

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.553/2005.

Jaipur, this the 10th day of May, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

Mahboob Khan
S/o Shri Faizu Khan,
Aged about 40 years,
R/o Village Dayra, District Sikar,
Rajasthan.

... Applicant.

By Advocate : Shri Girraj Singh.

Vs.

1. Navodaya Vidhyalaya Samiti
Through its Joint Director (Administration),
Head office-Near Indira Gandhi Stadium,
Indraprastha Estate,
New Delhi.
2. The Deputy Director,
Navodaya Vidhyalaya Samiti,
Regional Office,
A-12, Shastri Nagar, Jaipur.
Rajasthan
3. The Principal
Jawahar Navodaya Vidhayalaya, Mavli,
District Udaipur.
Rajasthan.

... Respondents.

By Advocate : Shri V. S. Gurjar.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for the following reliefs :-

"(i) quash and set aside the impugned order dated 15.10.2005 (Annexure A/1).

(ii) direct the respondents not to take any action against the applicant which is prejudicial to his carrier due to filing of earlier OA by him which is pending before this Hon'ble Tribunal.

(iii) direct the respondents not to shift the headquarter of applicant from Mavli, District

Udaipur to Nandla, District ajmer if any disciplinary proceeding is contemplated/pending against the applicant as mentioned in the impugned order.

(iv) pass any other appropriate order which this Hon'ble Tribunal may deem fit, just and proper in the facts and circumstances of the case in favour of the applicant."

2. Briefly stated, the facts of the case are that the applicant while working on the post of Chowkidar was placed under suspension vide order dated 15.10.2005 and consequent upon his suspension his headquarter was fixed at Jawahar Navodya Vidhyalaya, Nandla, District Ajmer. It was this order which is under challenge in this OA.

3. Notice of this application was given to the respondents and respondents were directed to file reply. When the matter was listed on 1.03.2006, this Tribunal after noticing the contention of the Learned Counsel for the applicant that the Headquarter of the applicant has been fixed at Ajmer, which is at a distance of about 300kms from Udaipur and he being a Class-IV employee, it was not legally permissible for the respondents to place the headquarter of the applicant at a distance of 300kms, passed the following order :-

"....I have given due consideration to the submission made by the Learned Counsel for the applicant. I am of the view that the applicant has made out a case for grant of interim relief. Admittedly, the impugned order of suspension was passed on 15.10.2005 when the charge sheet was not even served on the applicant. Under such circumstances, it was not permissible for the Principal to put the Headquarter of the applicant at a far distance when the charge sheet has not been served on the applicant and the inquiry has also not commenced. Prima facie, I am of the view that this action of

the respondents, so far as, it relates to fixing the Headquarter of the applicant at Ajmer is concerned, is arbitrary. Even otherwise also, the order of suspension was passed on 15.10.2005. Legally the said order is operative for 90 days, unless extended. There is nothing on record to suggest that the order of suspension dated 15.10.2005 was further extended within a period of 90 days. In case the order of suspension has not been extended, the impugned order dated 15.10.2005 is inoperative and even on this ground also the applicant is entitled to interim relief. Accordingly, the operation of that part of order dated 15.10.2005 which relates to the fixing of headquarter of the applicant at Ajmer is stayed till the next date. Let the matter be listed on 20.03.2006.

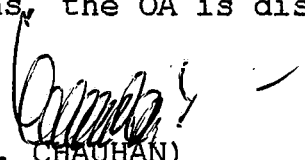
It is, however, clarified that it will be open for the respondents to revoke the impugned order dated 15.10.2005 in its entirety, if so advised, and the pendency of this OA will not come in the way of the respondents to pass such orders."

Thereafter the matter was adjourned from time to time and lastly on 18.04.2006. The respondents were directed to file additional affidavit whether the present OA still survives in view of the observations made by this Tribunal vide order dated 1.3.2006, relevant portion of which is reproduced herein above.

4. The respondents have filed additional affidavit which is taken on record. In the additional affidavit, the respondents have stated that in compliance of the order dated 1.3.2006 the applicant has already been allowed to join at Jawahar Navodaya Vidhyalaya Mavli, District Udaipur, Rajasthan, and this OA has become virtually infructuous. It is further stated that disciplinary action against the applicant for alleged misconduct is pending and the charge sheet has been

served on the applicant. In view of this subsequent development, where the suspension of the applicant stood automatically revoked and also that he has joined at Jawahar Navodaya Vidyalaya, Mavli, District Udaipur, the present OA does not survive. Needless to add that the dismissal of this OA will not come in the way of the respondents to proceed with the applicant in disciplinary matters in accordance with law.

5. With these observations, the OA is disposed of.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./