

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

8

ORDERS OF THE BENCH

Date of Order: 15.05.2012

OA No. 234/2012

Mr. Rajendra Prasad Sharma, counsel for applicant.
Mr. V.S. Gurjar, counsel for respondents.

At the request of learned counsel for the parties, put
up the matter on 17.05.2012 for hearing.

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

17/05/2012

OA No. 234/2012

Mr. R.P. Sharma, counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents

Heard.

O.A. is disposed of by a
separate order on the separate-
sheets for the reasons recorded
therein.

Received
Recd.
JSCM
24/05/12

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 17th day of May, 2012

ORIGINAL APPLICATION No.234/2012

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

Neeraj Saraswat
s/o Shri D.P. Sharma,
r/o 10/602, Kaveri Path,
Mansarovar, Jaipur,
last working in K.V.6, Jaipur

... Applicant

(By Advocate: Shri R.P.Sharma)

Versus

1. Kendriya Vidyalaya Sangathan
Through Commissioner,
18, Institutional Area,
Shahit Jeet Singh Marg,
New Delhi.
2. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Bajaj Nagar,
Jaipur
3. Shri Rajpal Singh,
Principal, Kendriya Vidyalaya No.6,
Pratap Nagar,
Sanganer, Jaipur

... Respondents

(By Advocate : Shri V.S.Gurjar)

ORDER (ORAL)

The present OA is directed against the transfer and relieving order dated 29.3.2012 (Ann.A/1) by which the applicant has been transferred from Kendriya Vidyalaya (KV) No.6, Jaipur to Kendriya Vidyalaya, Sriganganagar and the applicant has prayed that the respondents may be directed to continue the applicant as PGT (Commerce) at KV No.6, Jaipur, as if the order dated 29.3.2012 was never issued.

2. Brief facts of the case are that the applicant was given appointment on the post of PGT (Commerce) and he joined in K.V. Morar Cantt., Gwalior on 1.9.2003. He was confirmed on the post and shifted to KV No.6, Jaipur in the month of April, 2007. It is alleged that the applicant worked with sincerity and result of the classes to which the applicant taught was much high and was at No.1 in the entire region and looking to his performance, he was placed on deputation with KV, Sawaimadhopur, KV, Deoli and KV, Phulera for the purpose of improving the result of the Board Classes.

3. Besides teaching, the applicant has been given charge of examination. He is one of the members of the disciplinary committee and also entrusted the job of checking all the pay bill and accounts.



4. The learned counsel appearing for the applicant alleged that during the prayer assembly on 6.1.2012, the respondent No.3 started abusing the applicant in front of students and staff member. The Principal became furious and man-handled the applicant. However, by virtue of intervening of the teachers/staff the applicant could be saved, but due to this incident, the applicant suffered heart attack. He became faint in the school premises and thereafter taken to SMS, Hospital. He remained indoor patient for a week and took another five days for recovery. This news was published in local newspapers namely Rajasthan Patrika, Dainik Bhaskar, Punjab Kesari etc. The staff members and students condemned the act of respondent No.3 since they were witnesses of the incident and were aware that the applicant is innocent.

5. The applicant's wife being annoyed sent complaint to the Commissioner, KVS through fax on 8.1.2012 and also sent the same complaint through registered post on 9.1.2012. (Ann.A/4). This complaint was sent to the highest authority in the pious hope of getting justice and to get punished the respondent No.3 who is in the habit to harass and humiliate not only to the applicant but also the staff members and the students by using bad words besides indulging in corrupt practice. The applicant never danced on his tune, therefore, the applicant has been picked up and made scape goat.



6. The wife of the applicant was constrained to lodge FIR with the Pratap Nagar Police Station where a case has been registered under Section 336 and 504 of the IPC against respondent No.3 (Ann.A/5).

7. The applicant by way of this OA has alleged malafide allegation against respondent No.3 and stated that the entire administration of the Kendriya Vidyalaya is influence by respondent No.3 in the name of discipline, as such, instead of taking action against him, the applicant has been made scape goat with ulterior motive that the applicant being scared may withdraw the FIR lodged against the Principal. When the respondent No.3 and KVS administration did not succeed in their goal a false and fabricated FIR was lodged against the applicant with the Pratap Nagar Police Station by abusing the provisions of law under Section 3(1)(10) of Prevention of Atrocities on SC/ST Act and thereby falsely implicated the applicant. It is also submitted that the aforesaid FIR has been lodged after one month of the alleged incident, which makes clear that except to misuse the provisions of Prevention of Atrocities on SC/ST, there is nothing in the case lodged by the respondent No.3.

8. It is also stated that teachers and staff who were eye witnesses and given statement against respondent No.3 not only in the criminal case but also in the preliminary enquiry conducted by the administration, are threatened and influenced. The applicant has



given example of Shri Kamal Kishore Joshi, TGT and Shri Bhagwan Sahai, Lab Attendant who gave statement against respondent No.3 in criminal case and the enquiry and ultimately, the applicant has been transferred vide impugned order dated 29.3.2012 from KV No.6 to KV Sriganaganagar and was relieved with immediate effect.

9. It is not disputed that during preliminary enquiry, the applicant was working on deputation with KV, Dungarpur. It is also stated that teachers and other eye witnesses were influenced by the Principal so as to change their statement under influence. For example, one Shri Nathu Singh, Sanskrit Teacher has written a complaint against the Principal regarding influencing him to give statement against the applicant.

10. The learned counsel appearing for the respondents has strongly controverted the submissions made on behalf of the applicant and submitted that services of the applicant are transferable anywhere in the country. It is further stated that the self-styled statement made by the applicant to the effect that the applicant's performance throughout remained highly satisfactory besides his behaviour and conduct being excellent is far from the truth and factual foundation, rather is contrary to the material available on record, which speaks volumes about the manner of performance of duties by the applicant. The applicant has been issued memorandums and advisory notes on different occasions by



different Principals of different Kendriya Vidyalayas against the undesirable conduct like facilitating mal practice in Board Examination at Kendriya Vidyalaya Murar Cantt., followed by his own confession letter dated 24.1.2008 (Ann.R/2), his act of disobedience and insubordination as communicated to him vide memorandum dated 22.1.2008 by the previous Principal of the Vidyalaya namely Shri S.L.Jain. The Memorandum was issued which was communicated vide letter dated 22.1.2008 (Ann.R/1) regarding his act of carelessness and dereliction of duty. On 4th July, 2011 the previous Principal Shri C.P.Sharma, served memorandum on the applicant for failure to achieve the target decided by the KVS for result of Board Classes in 2011 vide memorandum dated 4.7.2011 (Ann.R/3). Similarly, advisory note from the Principal namely Shri Rajpal Singh for poor performance of the applicant for first Pre-Board result was communicated to the applicant vide advisory note dated 19.12.2011 (Ann.R/4). Therefore, the statement made by the applicant is absolutely false and misleading. It is further stated that the fact finding enquiry was conducted on 16.1.2012 by the committee constituted by the Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Jaipur could not substantiate the allegation of the applicant that respondent No.3 abused the applicant in the presence of all in the morning assembly (Ann.R/5). It is stated that after receipt of complaints, the Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Jaipur constituted the fact finding inquiry committee comprising one Assistant



Commissioner from KVS, Regional Office, Jaipur and two senior Principals of the Region from different stations to conduct an impartial and judicious inquiry. During the said inquiry process, the applicant and all other 37 staff members of the Vidyalaya were heard in person by the members of the Committee and besides this the Committee also entered into separate as well as group discussions with the students of the Senior Secondary as well as Secondary classes, for the purpose of ascertaining the fact about the allegations made in the complaint. Respondent No.3 was also asked to appear before the members of the Committee to give his statement. After conducting the enquiry, the Committee submitted its report on 16.1.2012.

11. The learned counsel appearing for the respondents relied upon the Full Bench judgment of the CAT-Principal in OA No.770/1987 wherein the Full Bench observed that the competent authority may, or may not find any truth in the complaints, but having regard to the administrative exigency may be of the view that a more suitable or more efficient person should be posted and for making place for such a person effect a transfer.

12. During the course of arguments, I thought it proper to call for the relevant record and the same was placed by the official respondent for perusal.



13. I have carefully gone through the entire record and also carefully perused the statement recorded by the Committee constituted to inquire into the matter regarding the incident of 6.1.2012. In my considered view, the applicant and respondent No.3 both are responsible for spoiling the educational atmosphere of KV No.6. Such behaviour and conduct of the applicant as well as respondent No.3 was unwarranted. Both of them being teachers are expected to act in a cultured and responsible manner. Being a Principal, responsibility lies upon respondent No.3 to enforce discipline, decency and decorum in the educational institute, which is essential to maintain quality of education.

14. It is also not disputed that in the FIRs lodged by the applicant as well as by respondent No.3, the investigation is in progress.

15. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record as also the original record produced and the report of the enquiry committee, I am of the firm view that looking to the conduct of the applicant the transfer order dated 29.3.2012 (Ann.A/1) does not require any interference by this Tribunal. Further, in the peculiar facts and circumstances of this case, I would also like to direct the respondents to immediately transfer the respondent No.3 Shri R.P. Singh, Principal KV-6 to another Kendriya Vidyalaya so that healthy atmosphere of education can be ensured and independent



investigation may be conducted by the investigating agency, as I am of the opinion that respondent No.3 is also fully responsible to spoil the educational atmosphere, which gives wrong message to the students, their parents and other teachers.

16. With these observations, the OA stands disposed of with no order as to costs.


(JUSTICE K.S.RATHORE)
Judl. Member

R/