

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

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ORDERS OF THE BENCH

Date of Order: 30.10.2012

OA No. 724/2012

Mr. C.B. Sharma, counsel for applicant.

Heard learned counsel for the applicant.

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

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

J.C.S. Rathore

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

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 30th day of October, 2012

ORIGINAL APPLICATION No.724/2012

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

G.R. Sharma
s/o Shri V.D. Sharma,
r/o 1349, Jaipuria Mohalla,
Nasirabad, Ajmer and holding the post of
Post Graduate Teacher (PGT)- Biology,
Kendriya Vidyalaya, Nasirabad,
Ajmer and at present on deputation at
Kendriya Vidyalaya, Deoli,
District Tonk.

.. Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Joint Commissioner (Administration), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur
4. Principal, Kendriya Vidyalaya, Nasirabad, Ajmer.

.....Respondents

(By Advocate :)

ORDER (ORAL)

The present OA is directed against the memorandum dated 17.10.2012 on the ground that copy of the complaint upon which charge memo has been served has not been supplied to the applicant. Further challenged on the ground that the application for change of Inquiry Officer has not yet been decided and when the same is pending, without deciding it, the respondents cannot conduct the summary enquiry against the applicant on the basis of complaint made by the girl students stated to be for physical and mental harassment. It is also challenged on the ground that the authorities have given it the shape of sexual harassment and request of the applicant to made available copy of complaints as well as report of the fact finding enquiry was rejected.

2. It is not disputed that the applicant appeared before the fact finding enquiry, but it is disputed that the enquiry was ordered by the incompetent authority i.e. respondent No.4 and in the present matter, the respondents dispensed with the enquiry and not followed the provisions of CCS (CCA) Rules, 1965 which were made applicable by the Kendriya Vidyalaya Sangathan. Thus, the applicant is being deprived from proper defence and the entire proceedings initiated against the applicant and



memorandum dated 17.10.2012 deserves to be quashed and set-aside. It is further challenged on the ground that respondent No.3 never made available copy of any order regarding conduct of summary enquiry and also regarding Inquiry Officer as well as other members and behind the back, entire proceeding is initiated against the applicant and the respondents are forcing the applicant to appear without any proper defence and without providing the material available with the respondents.

3. By way of this OA, the applicant claims the following reliefs:-

"i) That entire record relating to the case be called for and after perusing the same respondents may be directed to made available copy of complaints as well as findings of fact finding inquiry and to change inquiry officer/organizer before conducting summary inquiry by quashing letter dated 17.10.2012 (Annexure-A/1) with all consequential benefits.

ii) That the respondents be further directed that not to taken in to account Ex-party inquiry take place on 18/10/2012 or any other date by quashing the same with all consequential benefits with the further direction to act per procedure.

iii) Any other order/direction of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.

iv) That the costs of this application may be awarded."



4. We have heard the submissions made on behalf of the applicant and carefully perused the material available on record. Upon perusal of the record, it reveals that this is third round of litigation. Earlier, the applicant filed OA No.662/2012 against the transfer order dated 12.9.2012. In that OA, this Tribunal vide order dated 25.9.2012 issued notices to the respondents and passed interim order to the effect that the applicant may not be relieved, if he has not been relieved so far. It is admitted by the applicant that pursuant to this interim order issued by this Tribunal, he was not relieved pursuant to the transfer order dated 12.9.2012. Thereafter the applicant filed OA No.696/2012 challenging the order dated 24.9.2012 and since the applicant had filed representation before the respondents only few days back i.e. on 30.9.2012 in response to the order dated 24.9.2012 passed by the respondents, while disposing of the OA it was observed by this Tribunal that the applicant has not given breathing time to the respondents as the applicant has filed representation few days back i.e. on 30.9.2012 and he was required to give a reasonable time to the respondents for deciding the same. Thus, considering this aspect, it was observed that "it was expected from the respondents to decide the representation of the applicant dated 30.9.2012 (Annexure A/12) as per rules within a reasonable time. With these observations, the Original Application stands disposed



of with no order as to costs". Pursuant to the said direction issued by this Tribunal, the representation filed by the applicant has been decided by the respondents vide order/memorandum dated 3.10.2012 (Ann.A/8).


5. By way of filing the present OA the applicant has challenged the Memorandum dated 17.10.2012 (Ann.A/1) and prayed that the respondents be directed not to take into account the ex-parte enquiry taken place on 18.10.2012. As observed hereinabove, looking to the seriousness of the complaints made by the girl students and their parents against the applicant, if the respondents thought it proper to dispense with the enquiry as per the provisions of CCS (CCA) Rules and decided to hold summary enquiry in accordance with the norms and guidelines of Kendriya Vidyalaya following the ratio decided by the Hon'ble Apex Court in the case of Vishaka and others vs. State of Rajasthan reported in AIR 1997 SUPREME COURT 3011, no fault can be found on the part of the respondents. Besides this, vide impugned memorandum dated 17.10.2012 representation of the applicant dated 16.10.2012 has been decided by the respondents by giving detailed reasons for not changing the Inquiry Officer. So far as prayer of the applicant regarding supply of copy of the complaint is concerned, from bare perusal of order dated 3.10.2012 it reveals that gist of the complaint has already been provided to



the applicant and vide Memorandum dated 17.10.2012 the respondents have informed the applicant that he can peruse the original copies of complaints at the time of summary enquiry on 18.10.2012.

6. In view of above, since the representations of the applicant have been decided vide order/memorandum dated 3.10.2012 and 17.10.2012, we do not find any illegality in the order dated 3.10.2012 (Ann.A/8) as well as in the Memorandum dated 17.10.2012 (Ann.A/1) looking to the seriousness of the charges against a teacher. Therefore, the impugned Memorandum dated 17.10.2012 does not require any interference by this Tribunal at this stage.

7. Consequently, the OA stands summarily dismissed without issuing notices to the respondents.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/