

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2098/2016

New Delhi this the 16th day of November, 2016.

HON'BLE MR. JUSTICE M.S.SULLAR, MEMBER (J)

HON'BLE MR. P.K.BASU, MEMBER (A)

1. Tasneem Ahmed, ID 19810656
S/o Shri Shamadin,
Aged about 61 years
Re-employed TGT, Social Science,
Shaheed Hemukulani Sarvodaya
Bal Vidyalaya, Lajpat Nagar
(School ID 1925059), New Delhi-24

2. Lakhpat Singh, ID No. 19810654
S/o Late Rati Ram,
Aged about 61 years
Re-employed TGT, Natural Science,
Shaheed Hemukulani Sarvodaya
Bal Vidyalaya, Lajpat Nagar
(School ID 1925059)
New Delhi-24

... Applicants

(By Advocate: Ranjit Sharma)

VERSUS

1. The Govt. of NCT, Delhi
Through the Principal Secretary,
Department of Education,
At Sham Nath Marg, Delhi-54
2. The Director of Education,
Govt. of NCT, Delhi
Sham Nath Marg, Delhi-54
3. The Deputy Director of Education
Govt. of N.C.T, Delhi
C- Block, Defence Colony,
New Delhi-110036

... Respondents

(By Advocate: Mr. Vijay Pandita)

O R D E R (ORAL)

Hon'ble Mr. P.K.Basu, Member (A):

Vide Notification dated 29.01.2007, the Government of National Capital Territory of Delhi (GNCTD) conveyed the policy to allow automatic re-employment of all retiring teachers upto PGT level,

subject to fitness and vigilance clearance till they attain the age of 62 years or till clearance from Govt. of India for extending retirement age is received, whichever is earlier. Applicant No.1, Tasneem Ahmed was re-employed under this policy w.e.f 1.2.2015 and Shri Lakhpat Singh, applicant no. 2, w.e.f. 1.4.2015.

2. Both the applicants are aggrieved by orders dated 20.5.2016, whereby their services have been terminated with immediate effect. The termination orders state the following as the ground for termination:

"And whereas, the Hon'ble Minister of Education made a surprise visit in the school on 19.5.2016. During the course of inspection, the Hon'ble Minister of Education interacted with the students. The students complained against Shri Tasneem Ahmed, TGT (S.St. ,re-employed) of beating up and hurling repeated abuses. Such misconduct with students is unbecoming of Govt. Servant as per CCS (CCA) Conduct Rules 1965, especially so, in case of a teacher. Moreover, it is a violation of the Code of Conduct for Teachers and Child's Rules for stress free education and environment.

And whereas Hon'ble Minister chaired a meeting on 20.5.2016 which was attended by the Secretary (Education), Spl. Director of Education (Admn.), Principal of the said school and undersigned.

In the meeting after prolonged deliberations on the poor conduct and behaviour of Shri Tasneem Ahmad TGT (S.St.) with the students, it was unanimously decided to terminate the services of Shri Tasneem Ahmad TGT (S.St.)."

Applicants have challenged the impugned order dated 20.05.2016 seeking its quashing and directing the respondents to reinstate the applicants in their service with all consequential benefits, including salary.

3. In their application, the applicants have filed letter dated 5.08.1996 which is the letter from Principal Secretary, Govt. of NCT of Delhi expressing deep appreciation for the work and dedication displayed by Tasneem Ahmed for participating in holding the election

as Polling Officer in Jammu & Kashmir. Several other certificates issued by Principal of the School is also annexed. From the annual confidential report of applicant no. 1 (Annexure 4), it could appear that there has been 100% result which 10/12 distinctions and he has been assessed as hard working and graded as 'Very Good' for the year 2012-13. Similarly for the year 2011-2012 he has been assessed as 'Very Good'. In the case of Mr. Lakhpat Singh, applicant no.2, result of class Xth shows that there has been 100% success.

4. According to the respondents, there was a surprise inspection of the school by the Deputy Chief Minister on 19.05.2016. Along with the papers filed by the respondents vide their Misc. Application No. 3405/2016 they have filed the transcript of the conversation the Education Minister had with the students. It appears from this that the students made complaints against several teachers, namely, Mr.D.K.Bhat, Mr. Lakhpat Singh (Math. teacher), Mr Pritam (Math. Teacher), Mr. Mohd. Ali, the lady who served mid day meals, Mr. Mohan Rao (Physics teacher), Mr. Sita Ram (Commerce teacher), Mr. Ansar Ahmed (Vice Principal) and Mr.Madan Mohan (Hindi teacher). The respondents also relied on judgment of the Hon'ble High Court in **C.K.P. Naidu Vs. Government of NCT of Delhi and Ors** (W.P (C) 822/2014) with **Government of NCT of Delhi and Ors. Vs. C.K.P. Naidu** (W. P (C) no. 756/2014) wherein the Hon'ble High Court had set aside the order of the Tribunal which had granted re-employment to the applicant in that case as Principal till the age of 62 years. Hon'ble High Court considered the judgment of the Court in WP (C) 4330/2010 decided on 29.04.2011 in **Shashi Kohli Vs. Directorate of Education** holding that grant of extension is not a matter of right

and that the Principal/Vice Principal only has a right to be considered and the school has a right to deny the re-employment. It was also pointed out that in the appointment order itself dated 4.02.2015/09.02.2015 (Annexure A-2), the following is mentioned:

“However, if the services of the retired teacher on re-employment is found unsatisfactory, the re-employment may be reviewed with a speaking order on report of the HOS concerned, 1986 amended from time to time and duly accepted. Pay fixation order is being issued separately.”

It is further stated that in WP (C) 6450/2011 **Directorate of Education and Ors Vs. Ajit Kumar**, in its judgment pronounced on 29.03.2012, the Hon’ble High Court held as follows:

“The proposition of law, which emerges from these judgments, is that even if the dismissal of an employee from service is illegal, he is not entitled to whole of the back-wages as a matter of right, and the Court needs to award a suitable compensation after considering all the facts and circumstances of the case before it.”

Judgment in the case of **C.K.P.Naidu** (supra) only establishes that no one has a right to re-employment. Rest of the facts of the case are quite different from the present case.

5. We have heard the learned counsel, perused the relevant orders as well as judgments cited.

6. While it is true that the applicants have no right to be considered for re-employment, in case, the Tribunal finds any illegality or arbitrariness by the respondents interference by the Tribunal is called for. The facts of this case, as narrated above, would show that the Minister visited the school and talked to the students and the students complained against several teachers, perhaps all the teachers,

including the Vice Principal. From the transcript annexed to the MA No.3405/2016, however, we could not locate any specific reference to the applicant no.1 in the conversation with the Minister. Be that as it may, we take it that the students, apart from complaining against so many teachers, had also complained against the applicants. First of all, we find it very strange that the Minister should have met the students in this fashion almost encouraging them to pass derogatory remarks about the teachers. If at all, the Minister should teach the students that teachers have to be respected. That is what we had learnt when we were students. If at all the Minister had received some complaints about some teachers, he should have deputed some senior officer to hold a proper enquiry and then the department acted upon that after giving notice to the applicants in case the Inquiry Officer found something adverse against them, instead of this 'Kangaroo Court' procedure. The 'Kangaroo Court' indicts someone and, without any opportunity to that person, he is punished. Those familiar with the novel "The Trial" by Franz Kafka would immediately see the Kafkasque situation in this case. Administration will collapse if this the methodology adopted.

7. From the papers annexed to the OA, it would be seen that the teachers had performed very well as a teacher. Moreover, admittedly, there were no such complaints against the teachers before their retirement. It beats logic that all on a sudden, on reemployment, these teachers have started abusing students. We all know how difficult it is to control students these days. Therefore, it is logical that if any teacher wants performance from his students, in that process he has to be stern with them and naturally he would be disliked. This is

common student psychology. He will be disliked by most of the students barring those who are seriously interested in their studies. Therefore, not only does the action of the respondents smack of arbitrariness and complete lack of natural justice, even on merits, we find no reason to terminate the re-employment of these applicants. We, therefore, quash order dated 20.05.2016 with the direction to the respondents to reinstate the applicants immediately and not later than 7 days from passing of this order. However, for the period from the date from which their services were terminated after reemployment and till the date they join the service, in the circumstance of the case, we further direct that 50% of the salary should be paid to the applicants.

There shall be no order as to costs.

(P.K.Basu)
Member (A)

(Justice M.S. Sullar)
Member (J)

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