

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.3490/2016

Order reserved on 20.03.2017
Order pronounced on 22.03.2017

HON'BLE MR P.K. Basu, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

Mukesh Kumar Jha, aged about 37 years,
S/o Sh. Parmanand Jha,
R/o H.No.63, Vasant Gao, Vasant Vihar,
New Delhi-110057,
Lastly employed at GBSS No.3,
Sarojini Nagar, New Delhi-23,
School I.D. 1719005.

...Applicant

(By Advocate: Shri R.S. Kaushik)

VERSUS

1. GNCT of Delhi through
The Chief Secretary,
I.P. Estate, Govt. of NCT of Delhi,
New Delhi-2.
2. Director of Education,
Directorate of Education,
Old Secretariat, Civil Lines,
Delhi-54.
3. Principal,
Govt. Boys' Sr. Secondary School No.3,
Sarojini Nagar, New Delhi-23.

...Respondents

(By Advocate: Ms. Pratima Gupta)

:ORDER:**DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The applicant had been engaged as a Guest Teacher on the post of TGT Natural Science for the academic session 2014-15 w.e.f. 25.08.2014, vide the respondent no.3's communication dated 13.11.2014 (Annexure A-3). Under the policy of the Government of NCT of Delhi, the applicant was re-engaged for the academic session 2015-16. However, though the policy permitted his re-engagement for the academic session 2016-17 also, vide the respondent no.2's communication dated 17.06.2016 (Annexure A-6), the applicant was not allowed to join on 01.07.2016 when he reported to the respondent no.3 to join his duties. On his representation, the respondent no.3 issued the following communication dated 23.07.2016 (Annexure A-1):

"To whom so it may concern

This is to certify that Mukesh Kr. Jha (ID No.2014211299) TGT Natural Science who worked in this School in the session 2014-15 and 2015-16 with effect from 25 Aug. 2014 to 10 May 2016.

Whereas Mukesh Kr. Jha was disengaged on 1.7.2016 on account of dereliction in duty (manipulation in the answer sheets of maths in EIOP exam 2016 and over totalling in the copies of science 2014-15.

Whereas the name of Mukesh Kr. Jha is also mentioned in the exclusive complaint received from Deputy C.M. for involvement of money taking from students."

[sic]

2. Through the instant OA, the applicant prays that the aforesaid communication (Annexure A-1) be quashed and that

the respondents be directed to re-engage the applicant as a Guest Teacher (TGT-Natural Science).

3. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar [including this Tribunal's orders dated 16.11.2016 in the OA No.2098/2016 (Tasneem Ahmed & Anr. Vs. GNCT, Delhi & Ors.) and dated 16.03.2017 in the TA No.15/2016 (Shoeb Vs. GNCT, Delhi & Ors.)], and given our thoughtful consideration to the matter.

4. Obviously, the decision contained in the impugned communication (Annexure A-1) is stigmatic and admittedly, no show cause notice was issued to the applicant at the time the so-called inquiry was conducted on receipt of anonymous complaint from students and it was concluded against his conduct as mentioned therein.

5. In the light of the above, we do not find the respondents' decision to disengage the applicant for the academic session 2016-17 legally sustainable and are of the view that his OA deserves to succeed. We, therefore, hereby quash the decision to disengage the applicant and the demeaning contents of the impugned communication (Annexure A-1) and direct the respondents to re-engage the applicant within seven days from the date of receipt of a copy of this Order. However, he will be

entitled to only 50% of the remuneration for the period of his illegal disengagement. The respondents shall nevertheless be at liberty to disengage the applicant as per law. Further, until a final decision is taken as to whether the applicant be disengaged or not, he may be assigned teaching duty only and not that of setting question papers/evaluating answer sheets.

6. The OA is allowed accordingly. No order as to costs.

(DR B.A. AGRAWAL)
MEMBER (J)

(P.K. BASU)
MEMBER (A)

/JK/