

**Central Administrative Tribunal
Principal Bench**

OA No. 4393/2018

MA No. 4981/2018

Order reserved on: 04.12.2018

Order pronounced on : 07.12.2018

Hon'ble Mr. V.Ajay Kumar, Member (J)

Hon'ble Mr. Pradeep Kumar, Member (A)

1. Prem Singh Saini, aged 34 years,
s/o Sh. Hari Ram Saini,
Dis-engaged Guest Teacher,
Govt. of NCT of Delhi.
r/o Vill. Naglabad, Post Salempur Kalan,
Tesh. Bhusawar Distt. Bharatpur (Raj).

2. Rukam Kesh Meena, aged 36 years,
s/o Sh. Maluka Meena,
Dis-engaged Guest Teacher,
Govt. of NCT of Delhi.
r/o Vill. Pahadpura, Post Kishorpura,
Tesh. Sapotra Distt. Karauli (Raj).

... Applicants

(By Advocate: Ms. Sonika Gill for Sh. Yogesh Sharma)

Versus

1. Government of NCT of Delhi
Through its Chief Secretary,
New Secretariat,
New Delhi.

2. The Director of Education,
Government of NCT of Delhi
Old Secretariat,
Delhi.

3. The Deputy Director of Education (SE),
Government of NCT of Delhi
South East, Zone-29, Defence Colony,
C Block, New Delhi.

4. The Head of the School/DDO,
Govt. Boys Sec. School,
J.J.Colony, MPK Extn.,
New Delhi-76.

... Respondents

ORDER

By Hon'ble Mr. Pradeep Kumar, Member (A)

Applicant No.1 is a guest teacher to the post of TGT (Hindi), who was engaged on 15.10.2012 and applicant No.2 is a guest teacher to the post of TGT (English), who was engaged on 18.09.2014. The applicants had a scuffle with certain vegetable hawkers in the market on 22.11.2017. Both of them pleaded that they felt threatened and as such they had informed their Head of School (HOS) and considering threat to their life, the HOS permitted them not to attend school and instead go away for some time and thereafter HOS will get them transferred to some other school.

2. The applicants, however, pleaded that subsequently the HOS did not forward their request for transfer but disengaged both of them vide his letter dated 07.12.2017 due to "on account of remaining absent without prior permission of HOS".

3. Feeling aggrieved, the applicant submitted their representation dated 11.12.2017 to the Education Officer,

Defence Colony. One Inquiry Officer (Principal of another school) was appointed, who submitted a report on 13.12.2017 and the enquiry report concluded that “to relieve both these guest teachers was imprudent decision and recommended transfer of these guest teachers”. The Deputy Director of Education took this into account, however, he upheld the decision of dis-engagement vide his orders dated 13.08.2018.

The relevant portions of this order are reproduced below:

“And, whereas, since guest teachers are engaged purely on ad-hoc and daily wage basis on account of shortage of regular teachers, any leave whatsoever by the guest teachers, in this case, without prior intimation, is detrimental to the welfare of the students. The HOS being the appointing authority of guest teachers is the best judge to take appropriate action in such matters and the decision of the HOS to disengage these guest teachers as they had gone on leave without prior intimation, is also in conformity with the guidelines of the Department as this constituted misconduct on the part of the said guest teachers.

And whereas, these guest teachers approached CAT in OA No.1852/2018 in which Order dt. 10.05.2018, Department has been ordered to pass a Speaking and reasoned order on the joint representation of the applicants guest teachers dt. 11.12.2017 within 60 days from the date of receipt of the certified copy of the order.

And whereas, District South East, in view of above facts and circumstances finds no cogent reason to interfere with the relieving orders issued to these guest teachers by HOS, GBSSS, J.J.Colony, Madanpur Khadar Extn. New Delhi (Sch. ID. 1925339) dt. 07.12.2017.”

4. Feeling aggrieved, the two applicants have filed the instant OA. It has been brought out that the HOS was not the appointing authority of guest teachers, accordingly, the disengagement letter dated 07.12.2017 needs to be quashed.

Certain other judgments have also been quoted in support and following reliefs have been sought:

“(i) that the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 7.12.2017 (colly)(Annex.A/1) and order dated 13.08.2018 (Annex.A/2), declaring to the effect that the same are illegal, arbitrary and against the principle of natural justice and consequently pass an order directing the respondent to re-engage the applicant as guest teacher with all the consequential benefits including the arrears of pay and allowances arrears.

(ii) That the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to consider the posting of the applicant on their re-engagement in any other school by considering the safety of the applicants.

(iii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicants along with costs of litigation.”

5. Heard the learned counsel for the applicants. MA No.4981/2018 filed for joining together is allowed.

6. After being dis-engaged the applicants had approached the Tribunal vide OA No.1852/2018 wherein judgment was delivered on 10.05.2018 by directing the respondents to decide the joint representation of the applicants dated 11.12.2017, by passing a speaking and reasoned orders within a period of 60 days. In compliance of this judgment, the said representation has already been considered and speaking order has since been passed by Deputy Director of Education on 13.08.2018 (para 3 supra), who is an authority higher than the HOS in the administrative hierarchy. The

decision of the HOS, dated 07.12.2017 has been upheld in these orders dated 13.08.2018.

7. The instant case is one where the applicants were working as guest teachers and it was their responsibility to be present in school so that educational needs of the students are properly taken care of. Instead, they had chosen to remain absent even without informing the HOS as also recorded by him in these orders. It is this unauthorised absence which has led to the decision dated 07.12.2017 by the HOS as also recorded by him in these orders. The competent authority, who is higher than the HOS, has also since considered the representation of the applicants and gave detailed reasons and upheld the decision of the HOS (para 3 supra). This Tribunal is of the view that there is no need to interfere with this order.

8. In the result, the applicants' plea does not gain acceptability. The OA is dismissed being devoid of merit. However, the respondents may consider the applicants for engagement as guest teachers for school session 2019-20 and onwards as per their needs and extant instructions in force. No order as to costs.

(Pradeep Kumar)
Member (A)

(V. Ajay Kumar)
Member (J)

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