

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.4446/2017
M.A. No.4606/2017
M.A. No.4607/2017
M.A. No.2721/2018

Friday, this the 12th day of October 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Vinay Malik & others

..Applicants

(Mr. Ashok Aggarwal and Mr. T T Lepcha, Advocates)

Versus

Govt. of NCT of Delhi & others

..Respondents

(Mr. Saurabh Chadda, Advocate)

**O R D E R (ORAL)
(Third Member reference)**

The applicants were working as Teachers in a private school called 'Kathuria Public School'. By a judgment dated 19.02.2016 of Hon'ble Supreme Court, the said school was taken over by the Directorate of Education, Govt. of NCT of Delhi, and as such it came under the administrative control of the Directorate of Education. Apparently, the Directorate of Education noticed that the appointments of these applicants as Teachers in the Kathuria Public School were not done in regular manner and in accordance with Rule 96 of Delhi School Education & Rules, 1973. Accordingly, the show cause notices (SCNs) dated 17.01.2017 were sent to these applicants, against which they approached this Tribunal in the instant O.A. seeking quashment of SCNs. The applicants have also prayed for

interim relief in terms of a direction to the respondents restraining them from discontinuing them from service till the disposal of the O.A.

2. The O.A. was considered by a Division Bench of this Tribunal. However, there was a difference of opinion between the Hon'ble Members of the Division Bench; one favoured granting the interim relief and the other opposed.

3. In view of this, a reference has been made to me as a third Member.

4. Mr. Saurabh Chadda, learned counsel for respondents submits that during the pendency of the O.A., the Deputy Director of Education, District South West-A, with the approval of the competent authority, has passed orders F.No.DE-54/DDE(SW-A)/2018/307 dated 17.01.2018 discontinuing the engagements of these applicants in service on the ground that their appointments have been done in irregular manner. The irregularity pointed out differs from one case to another. Mr. Chadda, thus, submits that in view of the orders dated 17.01.2018, this O.A. has become infructuous.

5. I find considerable merit in the submissions of Mr. Chadda. Needless to say that the applicants, if they so wish, have to challenge the orders dated 17.01.2018. There are two options available before the applicants; (a) to seek amendment to the present O.A. in terms of challenging the orders dated 17.01.2018; and (b) to withdraw this O.A. with liberty to file a fresh one challenging the orders dated 17.01.2018.

6. Mr. Ashok Aggarwal, learned counsel for applicants, on instructions, prefers the second option.

7. Accordingly, this O.A. is dismissed as withdrawn with liberty to the applicants to take recourse to appropriate remedy, as available to them under law.

8. In view of aforesaid order, all ancillary Applications stand disposed of.

(K.N. Shrivastava)
Member (A)

October 12, 2018
/sunil/