

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO.060/00025/2017

Chandigarh, this the 9th day of January, 2018

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**CORAM:HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

Manjit Kaur, w/o Sh. Brig. U.S. Arora (Retd.), Age 71 years, R/o
House No. 1069, Sector 21-B, Chandigarh. Group-B

....Applicant

(Present: Mr. Rohit Seth, Advocate)

VERSUS

1. Union of India through its Secretary to Government of India, Ministry of Human Resources Development, U-2 Section, Department of School Education & Literacy, Shastri Bhawan, New Delhi -110001.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shahid Jeet Singh Nagar, New Delhi – 110016.
3. The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, IIT Campus, Powai, Mumbai – 400076.
4. Assistant Commissioner (Vigilance), Kendriya Vidyalaya Sangathan (Headquarter), 18, Institutional Area, Shahid Jeet Singh Marg, New Delhi – 110016.
5. Joint Secretary, SE-II Bureau, Ministry of Human Resource Development, Department of School Education & Literacy, U-2 section, Shastri Bhawan, New Delhi.
6. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, IIT Campus, Powai, Mumbai – 400076.
7. Assistant Commissioner, Kendriya Vidyalaya Sangathan, E-III, Kendriya Vidyalaya Sangathan, New Delhi.
8. Principal, Kendriya Vidyalaya Sangathan, Army Area, DAD Complex, Wanwari Range, Pune – 411040.

....Respondents

Present: Mr. R.K. Sharma, Advocate)

ORDER (Oral)

JUSTICE M.S. SULLAR, MEMBER (J)

1. The matrix of the facts and material, which needs a necessary mention, for the limited purpose of deciding the core controversy, involved in the instant Original Application (O.A.), and emanating from the record, is that applicant Manjit Kaur w/o Brig.

U.S. Arora, was working as Physical Education Teacher since October, 1971 in Kendriya Vidyalaya Sangathan (KVS). The husband of the applicant is Ex-Brigadier from the Indian Army, and was running his own business. As luck would have it, the applicant and her husband were charge-sheeted, in a criminal case for having committed the offences, punishable under Sections 3, 4 and 5 of the Suppression of Immoral Traffic in Women and Girls Act, 1956, registered against them, vide RCC No.136/95, by the police and were, accordingly, convicted, by the JMIC. As a consequence thereof, she was dismissed from service, by the Competent Authority.

2. The case set up by the applicant, in brief, insofar as relevant, is that the order of conviction, recorded by the JMIC, was set aside in the appeal, vide judgment of acquittal dated 13.03.1997 (Annexure A-9), by the Additional Sessions Judge, Pune (Appellate Court). Having been acquitted, she requested the Competent Authority, for reinstatement in service and for payment of all the dues, by filing representations dated 21.03.1997, 13.07.1997, 21.03.1998, 07.05.1998, 17.03.1999 (Annexure A-10 colly), 19.12.2012 (Annexure A-12) and 15.6.2014 (Annexure A-14), but in vain. Ultimately, she filed an appeal dated 16.04.2016 (Annexure A-18), but her claim was rejected, mainly on the speculative ground that unless the order passed by the Disciplinary Authority is set aside, by the higher Court, there cannot be any automatic reinstatement, vide impugned orders dated 21.07.2015 (Annexure A-2), 20.05.2016 (Annexure A-3), 10.08.2016 (Annexure A-4) and 26/27.09.2016 (Annexure A-5), by the respondents.

3. Aggrieved thereby, the applicant has preferred the instant O.A., challenging the impugned orders, being illegal, arbitrary, and

without jurisdiction. On the strength of the aforesaid grounds, the applicant seeks to quash the impugned orders, in the manner, indicated hereinabove.

4. On the contrary, although the respondents have duly acknowledged the factual matrix, however, they have denied the claim of the applicant and prayed that she is not entitled to automatic reinstatement, unless the order passed by the Disciplinary Authority, is set aside by a competent Court.

5. Having heard learned counsel for the parties, having gone through the record, with their valuable assistance, and after considering the entire matter, we are of the firm view that the instant O.A. deserves to be partly accepted, in the manner, and for the reasons, mentioned herein below.

6. What cannot possibly be disputed here is that the applicant was dismissed from service, on the ground, of conviction, in a criminal case, by the JMIC. It is not a matter of dispute that the order of conviction, passed by the Magistrate, has already been set aside, vide judgment of acquittal dated 13.03.1997 (Annexure A-9), by the Appellate Court. Having obtained acquittal in the criminal case, the applicant moved pointed representations/appeal, but her claim was rejected on speculative ground that she is not entitled to automatic reinstatement. Here, to our mind, the respondents have slipped into deep legal error in this regard. As mentioned above, once the applicant has duly been acquitted from the criminal charge, which formed the basis of the order of her dismissal, in that eventuality, the Competent Authority was required to examine the matter, in the right perspective, and to decide her representations/appeal, by passing speaking and reasoned orders.

The Competent Authority could not summarily reject the claim of the applicant, in this relevant connection, without recording any valid grounds. The Hon'ble Supreme Court of India in the case of **Union of India Vs. V.K. Bhaskar** 1998 (7) SLR 370 has held that if a delinquent succeeds in appeal in a criminal case, the matter can always be reviewed in such a manner, that he suffers no prejudice. Therefore, the Competent Authority was required to pass a detailed order, by deciding the issues, raised by her, in representations/appeal. In this manner, the Competent Authority has no legal authority to summarily reject the claim of the applicant, without application of mind, and without observing the principle of natural justice. Thereafter, it was required to consider the entire matter in the right perspective and pass a legal speaking order. The passing of speaking order by the Competent Authority is the basic legal requirement, which is totally lacking in the present case.

7. Exhibiting the necessity of passing of speaking orders, the Hon'ble Apex Court in the case of **Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others**, (2009) 4 SCC 240, has in para 8 held as under:-

“8. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities. **Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation**”.

8. An identical question came to be decided by Hon'ble Apex Court in a celebrated judgment in the case of **M/s Mahavir Prasad Santosh Kumar Vs. State of U.P. & Others** 1970 SCC (1) 764,

which was subsequently followed in a line of judgments. Having considered the legal requirement of passing speaking order by the authority, it was ruled that **“recording of reasons in support of a decision on a disputed claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy or expediency. A party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim.** It was also held that “while it must appear that the authority entrusted with the quasi-judicial authority has reached a conclusion of the problem before him: it must appear that he has reached a conclusion which is according to law and just, and for ensuring that he must record the ultimate mental process leading from the dispute to its solution”. Such authorities are required to pass reasoned and speaking order. The same view was again reiterated by Hon’ble Apex Court in the case of **Divisional Forest Officer Vs. Madhusudhan Rao** JT 2008 (2) SC 253.

9. Thus, seen from any angle, the impugned orders (Annexures A-2 to A-5) cannot legally be sustained, in the obtaining circumstances of the case.

10. In the light of the aforesaid prismatic reasons, and without commenting further anything on merit, lest it may prejudice the case of either side, during the course of fresh consideration of the case, the O.A. is partly accepted. The impugned orders dated 21.07.2015 (Annexure A-2), 20.05.2016 (Annexure A-3), 10.08.2016 (Annexure A-4) and 26/27. 09.2016 (Annexure A-5) are hereby set aside. The matter is remitted back to the Competent

Authority to decide the indicated representations/appeal, particularly (Annexure A-10 colly and Annexure A-18), by passing a speaking, reasoned order and in accordance with law, within a period of three months from the date of receipt of a certified copy of this order. However, the parties are left to bear their own costs.

(P. GOPINATH)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Dated: 09.01.2018

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