

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No. 559 of 2017
Cuttack this the 15th day of January, 2018

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Rashmi Ranjan Pattnayak, aged about 42 years, C/o. Mrs.Haramani Mohapatra, working as Trained Graduate Teacher (S.St.), Jawahar Navodaya Vidyalaya, At/PO/dist-Angul, resident of Qrs.No.P-IR/134, Nayabazar,At/PO-Paradip Port, Dist-Jagatsinghpur, Odisha

...Applicant

By the Advocate(s)-M/s.S.K.Parida
P.K.Sahu

-VERSUS-

1. Govt. of India represented through the Commissioner, Navodaya Vidyalaya Samiti, Ministry of Human Resource Development, Department of School Education & Literacy, A-28, Kailash Colony, New Delhi.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, A-135/A, Alkapuri, Habibganj, Dist-Bhopal, Madhya Pradesh.
3. Deputy Commissioner (I/C), Navodaya Vidyalaya Samit, Regional Office, A-135/a, Alkapuri, Habibganj, Dist-Bhopal, Madhya Pradesh.
4. The Principal, jawahar Navodaya Vidyalaya, At/PO-Champatimunda, Via-Hulursingha, Dist-Angul, Odisha

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty
ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant works as a Trained Graduate Teacher at Jawahar Navodya Vidyalaya, Angul. He has filed this O.A. praying for the following reliefs:

- i) Admit the Original Application, call for the records.
- ii) Quash the letter dt. 31.07.2017 under Annexure-A/5 and direct the respondents to reconsider for fixation of head quarter of the

Applicant in nearby place in the interest of justice within a time to be stipulated by this Hon'ble Tribunal.

And pass such other orders which will deem fit and proper for the ends of complete justice.

2. The brief facts of the case are as follows:

The applicant had joined as TGT (Social Studies) in J.N.V. at Landiguda, in Koraput District in the year 2003. In 2006, he was transferred and posted to Shillong. After completion of three years at Shillong, he was transferred to JNV, Angul under Bhopal Region in July, 2009. Vide order dated 3.7.2017, he was placed under suspension with immediate effect by the Deputy Commissioner I/c., NVS, Bhopal who fixed his Headquarters at Jawahar Navodaya Vidyala, Malkangiri-I, Orissa during the period of suspension. The applicant submitted a representation to the Deputy Commissioner I/c., NVS on 17.7.2017 for revocation of the order of suspension. He also submitted a representation on 20.7.2017 to change his headquarters to a place nearer to his last place of working instead of sending him to a hard station like Malkangiri-I. The Deputy Commissioner I/c., NVS (Res.No.3) however rejected his representation vide letter dated 31.7.2017 and directed him to report at the Jawahar Navodaya Vidyalaya, Malkanigiri-I immediately. The applicant submitted another representation on 1.9.2017 before the Deputy Commissioner, NVS to reconsider his case for change of headquarters to a place nearer to his previous place

of working. However, since there was no response on his 2nd representation, he has filed this O.A. praying for the relief as enumerated in para-1 above.

3. The applicant has based his prayer mainly on the ground that he has already served in a hard station like Shillong for three years from 2006 to 2009 and therefore, fixation of his temporary headquarters at Malkinigiri-I which is another hard station is unjustified. It is his contention that he has been illegally and arbitrarily placed under suspension by violating the principles of natural justice based on vague allegations. He has also submitted that the Deputy Commissioner I/c., NVS, Bhopal is not the competent authority to place him under suspensions. The applicant has attached the Medical Certificate to show that his mother Mrs. Haramani Mohapatra is undergoing treatment for old age related diseases and he has to look after his ailing mother. His son is prosecuting studies at Angul and therefore, the applicant deserves to be posted near his previous place of posting during the period of his suspension.

4. The Respondents in their short reply filed on 8.1.2017 have opposed the prayer of the applicant for change of headquarters from Malkanagiri-I to a place nearer to his place of posting. It is the contention of the respondents that the applicant failed to perform his duties and responsibilities of teaching. He did not complete the assigned subjects of Social

Studies in Class-VII, and VIII which resulted in poor performance of the students in that subject. He had not evaluated the annual examination answer scripts of Class-VII and VIII in time due to which the result for the annual examination 2016-17 was delayed and was finally published on 3.4.2017 without the result of the Social Studies paper for Class-VII and VIII. He also misbehaved with Smt.Parbati Pradhan, the Assistant Commissioner I/c. during her visit to Angul on 7.3.2017. The applicant also scolded and beat a Class-10 Student in dining hall on 17.2.2017 for which a complaint was received from the guardian of the student and the student himself. Due to his misconduct, the applicant was placed under suspension and disciplinary proceedings were contemplated against him. For smooth and fair conduct of the disciplinary proceeding the applicant was ordered to be kept away from the place of duty so that he may not be able to influence the students and parents concerned. The representation made by the applicant has been duly considered and rejected.

5. Respondent No.4, Principal, JNV, Angul, has filed a separate reply on 4.12.2017. The applicant has filed an objection in response to reply filed by Respondent No.4 on the interim relief and has reiterated his stand that fixing his headquarters at Malkinigiri-I is illegal and mala fide since he has not committed any gross misconduct in violation of the government policies and guidelines of the NVS. He has also

made some submissions about the objectionable conduct of the Principal and has denied that he misbehaved with Smt. Parbati Pradhan, Assistant Commissioner I/c.,

6. We have heard the learned counsels from both the sides and perused the documents submitted by them. The prayer of the applicant is limited to the refixation of his headquarters to a place nearer to his previous place of posting, viz., Angul. During the course of arguments, the applicant has field CCS(CCA) Rules regarding the matter of change of headquarters during suspension.

7. In the present case, The Respondent No. 3, i.e., the Deputy Commissioner I/c., NVS, Bhopal has issued a Memorandum of Charge on 15.3.2017 giving the details of the misconduct of the applicant. While disciplinary proceedings are continuing, the Respondent No.3 vide his order dated 3.7.2017 has placed the applicant under suspension with immediate effect. He has also ordered that the headquarters of the applicant will be at JNV, Malkangiri-I and the applicant should not leave the headquarters without obtaining prior permission of Respondent No.3. The provisions as enumerated in CCS(CCA) Rules, regarding fixation of headquarters of an employee under suspension read thus:

“An officer under suspension is regarded as subject to all other conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such, the headquarters of a Government servant should normally be assumed to be his last place of duty.

However, where an individual under suspension requests for a change of headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of travelling allowance, etc. or other complications".

(G.I., M.H.A., O.M.No.39/5/56-Ests. (A) dated the 8th September, 1956).

8. In the impugned order, the respondents have not mentioned any specific reason as to why the headquarters of the applicant should be fixed at a far away place. In the reply to the O.A., the respondents have simply stated that the applicant is likely to influence the students and the parents which will affect the disciplinary proceedings. However a perusal of the Charge memo and the documents filed by the applicant and the respondents, clearly shows that there is hardly any scope of such influence being brought upon the disciplinary proceedings since the statement of many of the persons involved in the incidents have been recorded. The Respondents have not cited any rule which empowers them to fix the headquarters of a suspended official at a far off place during the conduct of the disciplinary proceedings. On the other hand, in the present case, the disciplinary proceedings can be expedited and a final decision taken if the applicant is allowed to continue in the previous place of posting. Also it is a settled principle of law that the disciplinary proceedings should not be inordinately delayed and should be concluded as expeditiously as possible.

Keeping that in view the applicant's prayer for fixation of his headquarters at his previous place of posting or any other nearby place seems to be justified.

9. In view of the above, the respondent no.3 is directed to pass an order refixing the headquarters of the applicant at his previous place of posting, i.e., Angul, within a period of one week from the date of receipt of this order. They are also directed to complete the disciplinary proceedings as early as possible.

10. With the above observation and direction, the O.A. is disposed of. No costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

(S.K.PATTNAIK)
MEMBER(J)

BKS