

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260/00041 OF 2017
Cuttack, this the 20th day of January, 2017

CORAM
HON'BLE MR. R. C. MISRA, MEMBER (A)

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Sri Binaya Kumar Das, aged about 56 years, S/o-Late Dinabandhu Das of Village-Chhamuja, P.S.-Jaleswar, Dist- Baleswar, presently residing at Flat No.B-404, Moti Apartment, Satyanagar, P.S.-Kharvela Nagar, Bhubaneswar, Dist-Khurda and presently working as Post Graduate Teacher(Chemistry) in KVS, Srikakulam, Andhra Pradesh.

...Applicant

(By the Advocate-M/s. K. C. Kanungo, H. V.B.R. K. Dora)

-VERSUS-

Union of India Represented through

1. Commissioner, Kendriya Vidyalaya Sangathan, Institutional Area, Sahid Jeet Singh Marg, New Delhi-110016.
2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Pragati Vihar Colony, Mancheswar, Bhubaneswar-751017, Dist- Khurda, Odisha.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Pragati Vihar Colony, Mancheswar, Bhubaneswar-751017, Dist- Khurda, Odisha.
4. Principal, Kendriya Vidyalaya No. 1(2nd Shift), Unit-IX, Bhubaneswar, Dist-Khurda, Odisha.

...Respondents

By the Advocate- Mr. J. Sahoo

ORDER(Oral)

R.C. MISRA, MEMBER(A):

Heard Mr. KC. Kanungo, Ld. Counsel appearing for the applicant and Mr. J. Sahoo, Ld. Counsel appearing for the Respondents-KVS on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. Mr. Kanungo submitted that the applicant was serving as P.G.T (Chemistry) in Kendriya Vidyalaya No.1, Bhaubaneswar and now has been transferred and posted to Srikakulam, Andhra Pradesh.

3. The facts of the case are that the father of a girl student in the Kendriya Vidyalaya No.1, Bhubaneswar brought a complaint against the applicant to the Police alleging that he had sexually misbehaved and molested his daughter at home while taking a tuition class. On the basis of FIR, the Police had also arrested the applicant and released him on bail 29 days after he was kept in the judicial custody. The charge sheet was filed in the Sessions Judge, Khurda at Bhubaneswar and now the case is on trial. The cause for which the applicant has approached the Tribunal is that in the meantime vide Office Order dated dated 10.01.2017 (Annexure-A/8) the School authorities have initiated summary enquiry on 23.01.2017 at K.V. No.1, Bhubaneswar on the charge of sexual harassment to the girl student.

4. Mr. Kanungo submitted that there is no scope for having any summary enquiry since the incident did not happen in the School and in any case for the charge of sexually misbehaved and molested the girl the case is now under trial before the Sessions Judge, Khurda. Therefore, Mr. Kanungo submitted that the applicant will suffer double jeopardy if the summary enquiry is conducted. He has brought to my notice that on 16.01.2017 the applicant has made a representation to Respondent No.1 i.e., the Commissioner, KVS, New Delhi in which he has described the details of his grievance and has made a prayer that the order of the Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Bhubaneswar to conduct the summary inquiry is contrary to the provisions of the Article 81(b) of the KVS Code in view of the criminal case in which the applicant is under trial.

5. Mr. Sahoo, on the other hand has prayed that since the date of summary inquiry has been posted to 23.01.2017, the applicant should appear before the Inquiry Committee. He has further contended that the KVS

authorities are at liberty to initiate summary inquiry under Section 81(b) of the Education Code even when a criminal case is pending in the Court of Sessions Judge.

6. After considering the points of view expressed by the Ld. Counsel for both the sides, I am of the opinion that the competent authorities i.e., Commissioner, KVS should first look into the grievance of the applicant as agitated in his representation dated 16.01.2017, if the representation is pending with him. Therefore, at this stage, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No.1 to consider the aforesaid representation if filed and is still pending consideration at his level and communicate the result thereof to the applicant by way of a well-reasoned order within a period of one month from the date of receipt of a copy of this order.

7. As an interim measure, it is directed that the summary enquiry under Annexure-A/8 may be kept in abeyance till the decision of the Respondent No.1 is communicated to the applicant.

8. With the aforesaid observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

9. On the prayer made by Mr. K. C. Kanungo, Ld. Counsel appearing for the applicant, copy of this order along with paper book be communicated to the Respondent Nos.1 & 3 by Speed Post at the cost of the applicant, for which Mr. Kanungo undertakes to file the postal requisites by 24.01.2017.

(R.C.MISRA)
MEMBER(A)

K.B.

