

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/01009/2018

Gwalior, this Friday, the 26th day of October, 2018

HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Brajraj Singh, S/o Shri Surendra Singh, Age 31 years, Occupation : Service – presently posted as District Sports Officer, District : Bhind (M.P.) – 477001 -Applicant

(By Advocate – Ms. Smrati Sharma)

V e r s u s

1. Union of India through Secretary, Ministry of H.R.D., New Delhi – 110001.
2. Kendriya Vidyalay Sangthan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110016.
3. Deputy Commissioner, Kendriya Vidhalay Sangthan, Regional Office, Bhopal, In front of Maida Mill, Hosangabad Road, Bhopal (M.P.) – 462011.
4. Principal, Kendriya Vidhyalaya No.2, Airforce Station, Maharajpura, Gwalior (M.P.) - 474011 - Respondents

O R D E R (O R A L)

By R. Ramanujam, AM.

Heard. The applicant has filed this Original Application seeking following reliefs:

“8.(i) The respondents may kindly be directed to accept the technical resignation of the applicant retaining his lien in K.V. No.2, Gwalior at par with Smt. Arti Yadav, TGT and consequently return three months salary received from the

applicant alongwith all consequential affects including payment of interest on the said amount.

8.(ii) Cost of the petition be awarded or any other order direction deemed fit in the circumstances of the case be issued in favour of the petitioner.”

2. It is submitted that the applicant was an employee of the fourth respondent-Vidyalaya before he was appointed as a District Sports Officer under the Government of Madhya Pradesh by an order dated 08.01.2018. The applicant had applied for the post of District Sports Officer through proper channel and in this connection Annexure A-3 No Objection Certificate dated 25.10.2017 was also issued in his favour wherein it is stated that the applicant was a regular employee and there was no objection to his selection by MPPSC. The applicant is accordingly entitled to retain his lien with the respondent-Vidyalaya in terms of Articles 49 and 72(d) of the Education Code for Kendriya Vidyalaya Sangathan as updated upto 94th DOG meeting held on 28.12.2012.

3. Without reference to these provisions and also overlooking precedent cases such as that of one Smt. Arti Yadav who had been granted lien by a communication dated 23.01.2014 on her being selected as Assistant Superintendent of Land Records in the Revenue Department through MPPSC, the respondents singled out the applicant for an unfair treatment and insisted on his resignation

from the post held in Kendriya Vidyalaya forthwith, it is alleged. Further, an amount equivalent to three months salary was also recovered from the applicant before he was relieved to take up new assignment. Aggrieved by such action of the respondents, the applicant is before this Tribunal.

4. On perusal, it is seen that Article 49 of the Education Code for Kendriya Vidyalaya as updated up to the 94th DOG meeting held on 28.12.2012, a copy of which is produced before us by learned counsel for the applicant, provides as follows:

“Article 49. Retention of Lien

Permanent employees of the Sangathan who are selected for appointed in Central Govt. or State Govt. institutions/Public Sector Undertakings/Autonomous Bodies/Semi-Government Organisations etc. will be permitted to retain their lien on their permanent post for a period of two years or till they are permanently absorbed in that Department/Undertaking, whichever is earlier, subject to specified conditions. However, temporary employees of the Sangathan shall be asked to resign from the Sangathan’s service before they are appointed in such Departments/Undertakings, etc.”

5. Similarly, Article 72(d) of the aforesaid Code provides for retention of lien and the same is reproduced below:

“72.(d) In the case of permanent employee, their lien shall be retained in the Sangathan for a period of 2 years. They shall either revert to the Sangathan within the period of 2 years or resign from the post in the Sangathan at the end of that period. They shall also agree to pay pension contribution for

the period of their service outside the Sangathan. An undertaking to abide by these conditions shall be taken from them at the time of forwarding the applications to other office, in the format as in Appendix-X.”

6. It is seen that the applicant had made Annexure A-5 representation dated 18.01.2018 which was duly forwarded to the competent authority by Annexure A-6 letter dated 30.01.2018 followed by another representation on 30.01.2018, neither of which appear to have been considered for passing a speaking order. As the applicant is relying on the relevant provisions in the Education Code of the respondent-Vidyalaya and has also cited a precedent case, we are of the view that this O.A could be disposed of with a direction to the respondents to consider the applicant's claim now for refunding the three months' salary deducted at the time of relieving him as also for retention of lien for a period of two years in accordance with law/code/policy of the respondent department and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

7. The O.A is disposed of in the above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member
am/-

(R. Ramanujam)
Administrative Member