

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original application No.040/00134/2019

Date of Order: This the 26.04.2019

HON'BLE MRS.MANJULA DAS, JUDICIAL MEMBER

Sri Chandramoni Tamuli
TGT, English
J.N.V, Diphu
District Karbi Anglong, Assam
Pin: 782460

Applicant.

By Advocate Mr.G.Baishya

-Versus-

1. Union of Represented by the
Secretary to the Govt of India
Ministry of Human Resource Development,
Department of Education,
New Delhi-110001.
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2. The Commissioner,
Navodaya Vidyalaya Samity,
Institutional Area, Sector-62, Noida
Uttar Pradesh-201307.
3. The Assistant Commissioner,
Navodaya Vidyalaya Samity,
Institutional Area, Sector-62, Noida
Uttar Pradesh-201307.
4. The Deputy Commissioner,
Navodaya Vidyalaya Samity,

Regional Office, Temple Road,
Barik point, Lachumiere
Shillong-793001.

5.The Principal
J.N.V, Diphu
District-Karbi Anglong, Assam
Pin-782460.

Respondents

O R D E R (ORAL)

Per Mrs.Manjula Das, Judicial Member:

On being mentioned Mr.G.Baishya, learned counsel for the applicant, the matter has been taken up today as unlisted.

2. The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs.

“ 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer order No.F.14/Comp/NVS(SHR)/CT/Admn/270 dated 22.04.2019 issued by the

Respondents No.4 and the office order No.1-14/JNV(KANG)/2018-19/32 dated 22.04.2019 issued by the respondents No.5.

8.2 That the Hon'ble Tribunal be pleased to direct the respondent authorities to allow the applicant to stay at his present place of posting i.e JNV, Diphu, Karbi Anglong for the ends of justice."

3. Mr.G.Baishya, learned counsel for the applicant submitted that the applicant is presently working as PGT, English in JNV, Diphu, Karbi Anglong, Assam. The wife of the applicant is also an employee of the same Vidyalaya and working as TGT, Assamese. The respondent authority vide order dated 09.11.2018 attached the wife of the applicant at JNV, North Sikkim. Said order was challenged before this Tribunal by filing O.A.No.379/2018 by the wife of the applicant and this Tribunal vide order dated 13.11.2018 disposed of the said O.A. with a direction to consider the pending representation of the wife of the applicant by passing a Speaking Order. Further directed the authority to retain the wife of the applicant and allow her to continue

her services in JNV, Diphu till academic session of the child is over. However, the authority vide order dated 23.01.2019 rejected the representation of the wife of the applicant and modified the attachment order from North Sikkim to JNV, Changlang, Arunachal Pradesh. Said Speaking Order was challenged vide O.A.No.40/120/2019 and this Tribunal vide order dated 05.04.2019 issued notice to the respondents and stayed the operation of the impugned order dated 23.01.2019.

4. Mr.Baishnya further submitted that on 11.03.2019 the respondent No.5 i.e. the Principal,JNV, Diphu physically assaulted the wife of the applicant for which an FIR was lodged on 12.03.2019 and the same was registered as Diphu P.S Case No.46/2019 u/s 354, 506, 427 of IPC. The Police thereafter started the investigation. As a result the said accused Principal took anticipatory bail on 26.3.2019 from the learned District and Session Judge, Karbi Anglong. Thereafter, said Principal lodged an FIR against the present applicant and his wife, on 13.04.2019 by alleging that the

wife of the applicant tried to obstruct the Principal in discharging his duties and also threatened him. Thereafter, because of such FIR, the respondent authority vide impugned order dated 22.04.2019 has placed the applicant under suspension. According to Mr.Baishya, in view of the above suspension order, the respondent No.5 i.e the Principal, on the very same day i.e on 22.4.2019 has relieved the applicant with a direction to report at JNV, Changlang, Arunachal Pradesh.

5. Mr.Baishya further submitted that against the applicant, an FIR has been lodged by the Respondent No.5 which is registered as Diphu P.S. Case No.77/2019 with non bailable criminal offences wherein the investigation is going on. That being the position under the law, the applicant cannot leave the present station i.e Diphu and therefore, the action of the respondent authorities in one hand attaching the applicant to JNV, Changlang, Arunachal Pradesh and in the other hand filing of bogus criminal case wherein non bailable case is pending for investigation will

cause serious prejudice to the applicant. According to Mr.Baishya, said action of the authorities is violative of Article 21 of the Constitution of India.

6. Mr.Baishya fairly submitted that the applicant has been placed under suspension because of false allegations made in the FIR dated 13.4.2019 lodged by the Principal. Being aggrieved, the applicant submitted an application dated 23.4.2019 before the Respondent No.4 with a prayer to revoke the suspension order as well as relieve order dated 22.4.2019. But the said representations is pending before the Respondent authority for consideration.

7. Learned counsel has produced a judgment and order dated 9th May 1990 passed by the Hon'ble Punjab and Haryana High Court in CWP No.6323/1990 reported in **(1992)5 SLR 214 (1) (DB)** and submitted that similar direction be issued in the case of the present applicant.

8. I have heard learned counsel for the applicant, perused the pleadings and the precedents relied upon. It is

noted that only two days before, the applicant has submitted representation before the respondent authority for redressal of his grievances. In my view, justice will be met if a direction be issued by granting liberty to the applicant to file a comprehensive representation. Accordingly, without going into the merits of the case and without issuing notice to the respondents as well as in the ends of justice, I direct the applicant to make a comprehensive representation before the appropriate authority within a period of 15 days from the date of receipt of this order for revocation of suspension order dated 22.4.2019. On receipt of such representation, the respondent authorities shall consider and dispose of the same within a period of 3 months from the date of receipt of this order and pass a reasoned and speaking order as per decision of **Bhagat**

Ram, Vs. The Director of Paanchayats and others, (1992)5

SLR 214 (1) (DB), Punjab and Haryana High Court which is produced by the learned counsel for the applicant at the time of argument.

9. It is made clear that the decision so arrived by the respondent authorities, shall be communicated to the applicant forthwith. Till such time, the operation of the order dated 22.4.2019 by which the respondents ordered that during the period of suspension is in force, the headquarter of the applicant will be JNV, Changlang, Arunachal Pradesh of Headquarter, is remained stayed.

10. Further it is made clear that the order of stay shall continue till the communication of the decision to the applicant to be taken by the respondent authority.

11. Accordingly, O.A. is disposed of at the admission stage itself. No order as to costs.

(MANJULA DAS)
MEMBER(J)

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