

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.4392 of 2014

This the 14th day of March, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Abha Bhardwaj
Wife of Dr. R. Bhardwaj,
Resident of A-2/25, Shri Agrasen Apartments,
Plot No.10, Sector-7,
Dwarka, New Delhi-110045.

Age 47
Yoga Teacher

....Applicant

(By Advocate : Shri Mayank Joshi for Shri Ajesh Luthra)

VERSUS

Commissioner
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.

.....Respondents

(By Advocate : Shri S. Rajappa)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

By filing this OA, the applicant is seeking the following reliefs:-

- “(a) to pass orders setting aside the impugned order dated 24.03.2014 passed by the respondent; and/or
- (b) pass any order directing the Respondents to reinstate the Applicant in service in terms of similar order dated 16.08.2013 vide which the 8 other teachers were reinstated; and/or
- (c) pass any other order or orders may deem fit in the circumstances of the case.”

2. As proxy counsel appeared for the applicant, we proceed to adjudicate this case by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987. Accordingly we heard learned counsel for the respondents in detail.

3. Learned counsel for the respondents drew our attention to Order of the Hon'ble Delhi High Court in Crl. M.C.No.4887/2015 (**D.S. Bisht vs. Abha Bhardwaj**) dated 8.1.2014 in which after hearing both the parties, the Hon'ble High Court observed as under:-

“At this stage, Mr. Sunil K. Mittal, learned counsel for respondent- *Abha Bhardwaj* submits that due to pendency of these proceedings, respondent- *Abha Bhardwaj* has suffered much and she has even lost her job. It is submitted that she would be making a representation to her employer to seek reinstatement and it be clarified that these proceedings will not stand in her way to obtain reinstatement.

At the insistence of Mr. Kaushik Dey, Advocate for petitioner- D.S. Bisht, it is made clear that this Court is not issuing any direction for reinstatement of respondent- *Abha Bhardwaj* but in view of affidavit of respondent- *Abha Bhardwaj* asserting that order of 28th October, 2003 terminating her service is not subjudice and her similarly placed colleges have been reinstated, it is deemed appropriate to clarify that pendency of complaint in question ought not to stand in her way in case she otherwise deserves to be reinstated.

Mr. Sunil. K. Mittal, Advocate for respondent- *Abha Bhardwaj* submits that she would be making representation for her reinstatement before the authorities concerned within four weeks from today. If it is so done, then the delay, which is occasioned in making Representation due to pendency of these proceedings to challenge her termination from service, will not stand in the way of authorities concerned to sympathetically deal with her representation.

With aforesaid observations, the above captioned four petitions and application are disposed of.”

4. After the said Orders, the respondents called the applicant for hearing on 21.6.2014 but the said personal hearing did not materialize because as stated by the respondents in their order dated 24.3.2014, impugned in this OA, that the personal hearing of Mrs. Abha Bhardwaj could not be materialize due to an unfortunate incident occurred and the entire matter got vitiated at the time of hearing. During the course of hearing, Mrs. Abha Bhardwaj got agitated and used abusive language with the then Appellate Authority whereupon the following criminal cases were registered:-

“1. CrI. M.C. No.4887/2005 – (*D.S. Bisht Vs Mrs. Abha Bhardwaj*)

2. CrI. M.C. No.369/2006 & CrI. M.A. No.596/2006 – (*Dr. Rakesh Bhardwaj Vs Govt. of NCT & Ors.*)

3. CrI. M.C. No.4512/2006 – (*Narinder Kaur Vs Abha Bhardwaj*)

4. CrI. M.C. No.4744/2006 – (*M.S. Chauhan Vs Abha Bhardwaj*).”

and thereafter without giving her personal hearing, they disposed of her representation as under:-

“In compliance of the common order dated 8-1-2014 of the Hon’ble High Court, Delhi in the criminal cases, the representation of Mrs.Abha Bhardwaj, Ex-Yoga Teacher has been considered sympathetically, but

could not be acceded to in terms of the Codal provisions of Clause 12 of Article 81(D) of the Education Code wherein it has been specifically laid down that the order of the Appellate Authority made under this Article shall be final and shall not be called in question by way of any further application, petition for revision, review etc.

The representation of Mrs. Abha Bhardwaj is disposed of accordingly. The common order dated 8-1-014 of Hon'ble High Court, Delhi is also complied with."

5. Quite clearly the above order on her representation cannot be said to be an order in compliance of the aforesaid directions given by the Hon'ble Delhi High Court, as the respondents had been directed to consider her representation and pass an order by sympathetically dealing with her representation. The authorities in fact through the order mentioned above had only referred to the recourse taken by them to Clause 12 of Article 81(D) of the Education Code previously and have stated that the appellate authority order made under this Article shall be final and shall not be called in question by way of any further application, petition for revision, review etc. This impugned order flies in the face of the directions given by the Hon'ble High Court after agreement of both the parties. Hence, regardless of codal provisions of the Education Code, the respondents are duty bound to consider the representation made by the applicant as directed in the aforesaid Order of the Hon'ble High Court, which was as under:-

"Representation due to pendency of these proceedings to challenge her termination from service, will not stand in

the way of authorities concerned to sympathetically deal with her representation.”

Hence, in view of the above facts and circumstances of this case, the impugned order dated 24.3.2014 is set aside and the respondents are directed to comply with the Orders given by the Hon’ble Delhi High Court in Crl. M.C. No.4887/2005 and pass a detailed and speaking order by taking into account representation given by her and after giving her an opportunity for personal hearing on a date to be fixed by them. A copy of the same be made available to her within a period of 90 days from the date of personal hearing given to the applicant.

6. In view of the above position, the present OA is disposed of in above terms. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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