

Central Administrative Tribunal
Principal Bench

OA No.934/2003

New Delhi this the 31st day of March, 2004

Hon'ble Shri Shanker Raju, Member (J)

Hon'ble Shri Sarweshwar Jha, Member (A)

M.L. Paladia
Ex. PGT (English)
R/o 272 D, Pocket J+K
Dilshad Garden
Delhi.

-Applicant

(By Advocate: Shri Anil Srivastava)

Versus

1. Joint Commissioner (Admin)
Kendriya Vidyalaya Sangathan
18, Institutional Area,
New Delhi-110016
2. Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Regional Office,
92 Gandhi Nagar Marg,
Bajaj Nagar, Jaipur-302015.

-Respondents

(By Advocate: Shri S. Rajappa)

ORDER (Oral)

Hon'ble Shri Shanker Raju, Member (J)

Applicant impugns removal order dated 30.10.2000 as well as appellate order dated 15.5.2002 upholding the punishment.

2. Applicant while working as PGT (English) was proceeded against for a major penalty under Rule-14 of the CCS (CCA) Rules, 1965 for allegedly demanding and accepting a bribe of Rs.500/-.

3. The enquiry was proceeded ex-parte despite the request of applicant made to the Enquiry Officer

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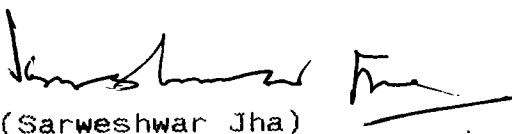
(EO) on account of his illness and admission in the Government hospital. EO held applicant guilty. On representation, the disciplinary authority removed applicant from service which was affirmed by the Appellate Authority, giving rise to the present OA.

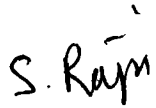
4. Amongst various grounds learned counsel contends that as the presenting officer was Sub-Inspector in the CBI being legally trained, request of applicant for engagement of a legal assistant in defence by appointment of a legal practitioner was turned down without justified reasons. Learned counsel further states that whereas he has informed the EO in so far as his illness and admission to the hospital is concerned, but EO without paying any heed to his request continued with the enquiry and examined the witnesses which has deprived applicant of a reasonable opportunity to defend, which is in violation of principles of natural justice.

5. On 7.1.2004 respondents' counsel has been directed to produce the departmental record. Today Shri S. Rajappa, learned counsel appeared and fairly conceded that the enquiry has been proceeded ex-parte without paying any heed to the request of applicant. As such, the orders cannot be sustained and the matter be remanded back to the authorities to be resumed from the stage of examination of PWs.

6. Having regard to the submission of the learned counsel of the respondents and the decision of

the Apex Court in Union of India Vs. I.S. Singh 1994 SCC (L&S) 1131 wherein request for adjournment by the EO on medical grounds was ignored, the ex-parte enquiry was set aside. We allow this OA by setting aside the order of removal as well as appellate order. As a result of that respondents are directed to reinstate applicant forth-with and if so advised resume the proceedings from the stage of examination of prosecution witnesses. They should also consider the request of applicant for appointment of legal assistant. The enquiry so resumed shall be completed within a period of six months from the date of receipt of a copy of this order with utmost cooperation by applicant. The intervening period shall be decided by the respondents in accordance with the relevant FR and other statutory rules. No costs.


(Sarveshwar Jha)
Member (A)


(Shanker Raju)
Member (J)

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