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Central Administrative Tribunal, Principal Bench

C.P. No. 296 of 2004 In
O.A. No. 516/2003

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New Delhi this the 3rd day of December, 2004

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

Hon'ble Mr. S.K. Malhotra, Member (A)

Shri Lachi Ram Sharma
S/o Shri Om Parkash Sharma
Ex-Peon, Kendriya Vidyalaya,
NTPC Badarpur,
New Delhi
R/o Village Bhogala, The. Palwal,
District Faridabad, Haryana.

...Applicant

By Advocate: Ms. Nidhi Bisaria.

Versus

1. Shri Sunil Kumar
Commissioner,
Kendriya Vidyalaya Sangathan,
19, Insititutional Area,
Shaheed Jeet Singh Marg,
Katwaria Sarai, New Delhi.

2. Smt. A.N. Siddiqui
Education Officer,
J.N.U. Campus,
Mehrauli Road,
New Delhi.

...Respondents

By Advocate: Shri S. Rajappa.

ORDER (ORAL)

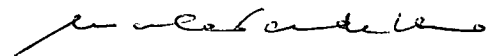
By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The present application is filed complaining that the respondents have deliberately failed to comply with the directions of the Tribunal and they are in contempt, so should be punished under the Contempt of Courts Act.

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2. The applicant was appointed to the post of Peon in Kendriya Vidyalaya Sangathan in 1986. Disciplinary proceedings were conducted against him on the charge that he had submitted a forged transfer certificate as a proof of his date of birth and qualification. As a penalty, he was removed from service on 25.9.1999. He challenged this order in OA 516/2003. The applicant submitted a certificate of the Principal of the School verifying the TC No.2770 as genuine. The Tribunal on 4.3.2004 disposed the OA and directed the respondents to get the said certificate of the Principal verified through a responsible officer and if the TC was found genuine, reinstate the applicant in service. The applicant filed present Contempt Petition complaining that the respondents have not complied with the directions of the Tribunal and were in contempt and should be punished under Contempt of Courts Act.

3. The respondents have refuted the allegations made in the application in an affidavit filed by Mrs. A.N. Siddiqui, Education Officer. It is submitted that in compliance with the order of the Tribunal dated 4.3.2004, Assistant Commissioner, Kendriya Vidyalaya Sangathan by order dated 8.4.2004, had deputed Smt. A.N. Siddiqui, Education Officer, the deponent, to verify the record/list of certificates bearing No.2770 issued in respect of the applicant by Kisan Inter College, Parsol, Gautam Budh Nagar, Bulandshahr. The applicant was also allowed participation, but he did not participate in the verification process. Again vide order dated 23.6.2004 in compliance with the direction of KVS Headquarter, the deponent was again deputed to verify another certificate bearing No.2826 dated 11.8.1986 in respect of Shri Lachhi Ram issued by the Adarsh Inter College, Muradnagar, Ghaziabad. This TC was found to be a fake document. The applicant was allowed participation by the Assistant Commissioner, KVS



for verification of the certificate and he was asked to be present on 16.8.2004 at 11.00 A.M. On 16.8.2004, the applicant submitted two certificates bearing No. 2770 and 3260 along with his representation. The deponent was again deputed to re-verify the copies of these certificates from Kisan Inter College, Parsol, Bulandshahar. The deponent visited Kisan Inter College and after conducting enquiry, she submitted the report to the Assistant Commissioner on 20.4.2004. Subsequently, she was asked to re-verify the certificates and the applicant was given participation for 22.9.2004. The applicant was asked to attend the proceedings on 22.9.2004 by a registered letter, but he did not avail of this opportunity. According to the deponent, she verified the certificates and submitted his report dated 22.9.2004, which is Annexure R-I to the affidavit, according to which, certificate bearing No.2770, was not genuine. It is submitted that the order of the Tribunal has been complied with.

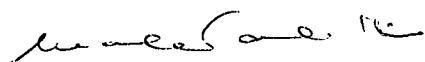
3. The copy of the report which was submitted is at page 26 of the OA. It was stated in the report that vital part of SR No.2742 to 2798 were eaten away by termites but name, fathers name, Sl. No. etc. of SR No.2270 was intact. The placement and printing of 2770 was altogether different and this page seemed to have been inserted. The signature of the Principal, Clerk and the date of issue of TC at Sl. No.2770 was now termite eaten. The school did not keep the carbon copies of the TCs which were issued. The school had only the SR register where signature of the the Principal and Clerk at Sl.No. 2770 which were earlier unidentifiable by the school staff, are now mysteriously termite eaten while the vital part is intact unlike other preceding and succeeding pages. As regards SR 2770, there was no carbon copy of the TC issued on 12.7.78 available in the record of the school. The report further showed that the entries relating to SR



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Nos.2758 and 2759 were completely eaten away by the termites. Entries of SR No.2760 had only the name of the student intact, rest of the entries were eaten away by the termites. As regards SR Nos.2760 and 2763 only the name of the students were intact, rest of the entries were eaten up by the termites. With regard to SR No.2777, the name of the student, the date of issue of the TC and the name of the Clerk was intact. The name of the Principal was not visible. In respect of SR. Nos.2794, 2795 and 2809 the name of the student, the date of TC and the name of the Clerk were legible, but the name of the Principal was eaten away by the termite. About SR Nos.2837 and 2838, the reports indicated that the name of the student, the date of TC were intact, but the name of the Principal and the name of the Clerk were termite eaten.

4. The grievance of the applicant is that the applicant was not given opportunity to participate in the proceedings since he had received the notice from the respondents for his joining the proceedings only on day, on which the proceedings were conducted and it was not possible for him to reach there. The applicant has admitted the receipt of letter dated 14.9.2004 but has alleged that it was received on 22.9.2004 at 4.00 P.M., i.e., on the same day on which the verification was fixed by the Education Officer. But he has not dared to produce the postal envelopes containing the notice to prove his allegation. We cannot believe that the notice dated 14.9.2004 had reached the applicant on 22.9.2004 at 4.00 P.M. in the absence of the envelope bearing postal stamps. It would not have taken that long to be delivered to the applicant in the ordinary course of business of the post office. Judicial notice thereof may be taken. The applicant did not seem interested in joining the proceedings. We do not, therefore, find that the direction of the Tribunal for providing an opportunity of hearing for participation to the applicant was flouted or there




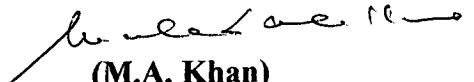
was deliberate or intentional disobedience of the order of the Tribunal to hold the respondents in contempt.

5. The Tribunal had directed the respondents to depute a responsible person for verification of the clarification sent by Registered Post on 11.5.1999, an Education Officer was deputed for compliance with the direction. Further direction of the Tribunal was that in case the document was held to be genuine certifying correct date of birth and qualification of the applicant, the respondents would review the order of penalty and take appropriate steps to bring back the applicant in service. Perusal of the affidavit submitted in response to the show cause notice and the accompanying report show that the document in question was not genuine.

6. For the reasons stated above, we hold that the respondents have not committed contempt of this court and they are not liable to be proceeded against under the Contempt of Courts Act.

7. Accordingly, we dismiss the Contempt Petition and discharge the notices.


(S.K. Malhotra)
Member (A)


(M.A. Khan)
Vice Chairman (J)