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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1960/2003

New Delhi, this the 20th day of December, 2004

Hon'ble Shri S.K. Naik, Member(A)

Vijay Kumar
10/225, Trilokpuri, Delhi-91

Applicant

(Shri R.K.Shukla, Advocate)

versus

Government of NCT of Delhi, through

1. Lt. Governor of Delhi
Raj Niwas, Delhi
2. Director of Education
Estd.I, Old Secretariat, Delhi
3. Principal
Govt.Girls SS School
GT Road, Shahdara, Delhi

Respondents

(Ms. Kanika Vadhera, Advocate)

ORDER

Applicant was working as part-time sweeper with the respondent-school from 1.2.1997 and his services were disengaged on 31.10.2002. He had earlier challenged the same by filing OA No.396/2003 which was disposed of by this Tribunal on 21st February, 2003 directing the respondents to dispose of his representation with a speaking order. In pursuance thereof, respondents have disposed of his representation by a detailed order on 30.4.2003 justifying his disengagement. By virtue of the present OA, he has challenged his disengagement as also the order dated 30.4.2003 and has prayed for a direction to the respondents to re-engage him in service with consequential benefits.

2. Learned counsel for the applicant has contended that the applicant was appointed against a regular vacancy in accordance with the R/Rules for the said post and therefore his services should not have been dispensed with. He has further contended that the ban order imposed on 21.10.98 would not be applicable to the applicant as he was engaged on 1.2.1997.

3. Respondents have contested the application. They have stated in their reply that directions were issued to all the schools from time to time not to engage any part-time workers and to remove any such part-time worker who were engaged in contravention of the earlier orders/OMs in this regard. In pursuance of the observation made by the Delhi High Court to maintain cleanliness in schools,

Respondents took a decision vide OM dated 21.8.2000 to award sanitation work to private agencies and it was noted that it would be the duty of those agencies to maintain cleanliness in the schools.

4. Learned counsel for the respondents has contended that the applicant was engaged by the school concerned dehors the rules and was paid from the PTA funds and not directly by the respondent-department and his services were discontinued as a result of the policy decision mentioned above. Therefore the applicant has no case and the OA be dismissed,

5. Learned counsel for the applicant has placed reliance on the judgement of this Tribunal dated 30.6.2000 in OA 2722/1999 and argued that the case of the applicant is covered by this judgement and therefore he is entitled for re-engagement and regularization.

6. On the other hand, learned counsel for the respondents has contended that the aforesaid is not applicable herein as the applicant in the said OA was working as Attendant in home science laboratory and not as a part-time sweeper. He has however drawn my attention to the judgement dated 25.8.2003 in OA 3206/2002 with OA 3170/2002 touching upon the subject of part-time workers which were dismissed following the ratio of the apex court in **Pavitra Mohan Das V. State of Orissa (2001) 5 SCC 480**. He has also drawn my attention to the judgement of Delhi High Court dated 13.8.2004 in WP 13390-11 by which while upholding the decision of this Tribunal in dismissing the OAs filed by part-time Sweepers etc. the High Court has held that "We also find ourselves in full agreement with the view taken by the Tribunal in the facts and circumstances of the case because petitioners would not claim any right to continue in terms of their engagement/appointment orders because their engagement was admittedly dehors rules and not against any regular posts". In the instant case, the engagement of the applicant was dehor the rules and the impugned order terminating the services of the applicant is in order and just and does not warrant any interference. That apart the decision of the Delhi High Court(supra) is binding upon this Tribunal.

7. In view of this position, I find no merit in the present OA and the same is accordingly dismissed.

S.K. Naik
(S.K. Naik)
Member(A)

/gtv/