

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 114 /2003

7

New Delhi this the 19th day of March, 2004

Hon'ble Shri Sarweshwar Jha, Member(A)
Hon'ble Shri Bharat Bhushan, Member(J)

Dr. K.P. Verma, TGT (Science),
S/o Late Shri Raja Ram Verma,
R/o Central School for Tibetans,
Gothangaon, Post Pratapgarh,
Distt. Gondia (Maharashtra)
Pin-441702.

..... Applicant

(By Advocate: Shri N.L. Bareja)

versus

1. Union of India,
Through its Secretary,
Ministry of Human Resources
Development(HRD)
(Deptt. of Secondary & Higher Education),
Shastri Bhawan, New Delhi-110001.
2. The Addl. Secretary,
Govt. of India, & Chairman C.T.S.A.,
Deptt. of Education, MHRD,
Shastri Bhawan, New Delhi-1.
3. The Secretary,
Central Tibetan Schools Administration,
Ess Ess Plaza,
Community Centre, Sec-3,
Rohini, Delhi-110085.
4. The Head Master,
Central School for Tibetans(CST),
Gothangaon, Post Pratapgarh,
Distt. Gondia (Maharashtra) ... Respondents

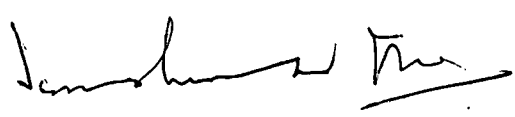
(By Advocate: Ms. Jyoti Dutta for respondent no.3)

Order(Oral)

Hon'ble Shri Sarweshwar Jha, Member(A)

Learned counsel for the parties have been heard.

2. The applicant is aggrieved by the impugned transfer order dated 16.12.2002 issued by the respondent no.3 whereby he has been posted from CST Gothangaon to CST Tenzingaon with immediate effect till further



8

orders. The said transfer order has been further modified vide order dated 17.1.2003 whereby his deputation to CST, Tenzingaon has been regularised without paying him TA/DA alongwith transfer benefits as per rules. Accordingly, he has been relieved immediately in the first week of February, 2003 so that he may join at CST, Tenzingaon on 15.2.2003.

3. The applicant has submitted that earlier he had completed his tenure of about three years at CST Kalimpong, Darjeeling, West Bengal, on promotion as TGT from 01.7.1991 and served in the said School upto 20.7.1994, which is treated as a remote area and tribal area. There is also a reference to the fact that the applicant, after joining the CTSA (Central Tibetan School Administration), got the information that there was an All India Central Tibettan Schools Administration Employees Literary Association (AICTSAELA) duly registered, and that the employees of the CTSA were entitled to form an association of the employees for resolving causes of common interests and that information to this effect has been sent to the respondent no.3 vide letter dated 10.10.1974. Further, it is observed that the terms and conditions of the employees of CTSA are governed by the CCS Rules and as such the employees of CTSA like those of the Central Govt. employees are entitled to form an association of the employees for resolving causes of common interests of the employees. The learned counsel for the applicant has, however, mentioned that this Association is yet to be recognised by the authority concerned.



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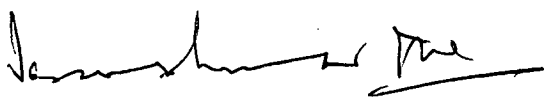
4. The applicant appears to have been elected as submitted by him in para 4.5 of the OA, the President of the said Association and information to this effect was given vide letter of 9.4.2002 to the respondents. It appears that the said letter did not find favour with respondent No.3 and in response to it a communication dated 16.4.2002 was addressed to the applicant by the respondent No.3 stating that it had come to his notice vide the applicant's letter dated 9.4.2002 that the so called Association was functioning and that the applicant was the President of the said Association. The applicant was also directed to give certain clarifications to enable him to undertake various activities in the interest of the said Association. He has further submitted that the respondents had malafide intentions to curb his fundamental right to be a member of an Association in violation of the Constitution^{al} right as contained in Article 19(1)(c). The applicant submits that he has not received any communication on the outcome of his representation/appeal dated 16.12.2002.

5. The applicant in para 4.8 of the OA has submitted his present problems have arisen out of his transfer. The School being located in a remote area, provision exists in the premises of the School to keep the family and accordingly he has been keeping his family in the residential accommodation allotted to him. He has submitted that respondent No. 3, despite having personal vendetta against him, could not find an opportunity to harm him, but he always had a grudge against him and intended to harrass and humilate him with a view to tarnishing his image in the eyes of his colleagues and the Organisation, as he has been



performing his duties satisfactorily besides being an office bearer of the Association. He has alleged as submitted in para 4.10 of the OA that he was asked to proceed to the new Station despite the fact that the said station was observing winter vacation from 16.12.2002 to 14.2.2003. He has also submitted that his entitlement for transfer grant/TA/DA was not indicated in the said transfer order. In his representation, he has stated that Respondent No.3 has no jurisdiction to transfer any teacher from any CST without his willingness, as had been decided in the meeting of the Governing Body (G.B.). In support of the contentions as submitted in the said paragraph he has also relied upon judgments: (i) JT 1993(4) SC 47 Ramadhar Paney vs. State of U.P. & Ors., and (ii) 1989(I) SLR (PB & HRY) 281 Ram Murti Vs. State of Punjab and Ors. It is observed that the applicant had questioned the transfer policy and accordingly has submitted a representation through the Chairman of the CTSA requesting his indulgence in the matter. As regards his grievance regarding non-indicating his entitlement of transfer grant/ TA/DA in the transfer order as admissible clearly shows malafide and arbitrariness on the part of respondent No.3.

6. Finally, the applicant has prayed that the Tribunal may consider quashing/setting aside the impugned orders dated 16.12.2002 and 17.1.2003 issued by the respondent no.3 whereby he has been posted to CST Tenzingoan and also issue further direction to the respondents to issue orders/instructions for reverting him to CST Gothangaon from where he has been posted out vide impugned orders. He has also prayed for directions



(11)


being issued to the respondents restraining them from initiating any action against the applicant without due process of law.

7. From the reply as submitted by the respondent no.3, it is observed that matter relating to recognition of the so-called All India CTSA Literary Employees Association has not been specifically dealt with the issue regarding transfer of the applicant. It appears from the reply that they have taken a decision that would not be appropriate to accord recognition to the so-called Association. They have also stated that the matter regarding recognition of the association had been taken up before Hon'ble High Court and the administration is not aware of any functioning of the so-called Association except its registration in Delhi.

8. Having considered the facts as available before the Bench and after hearing the learned counsel for the applicant as well as for the respondents, it is observed that the transfer order has been issued due to malafide and prejudice on the part of the respondent No.3 and also due to the fact that he was an office bearer of the CTSA. However, what remains to be done is that since the matter has been brought to the notice of Respondent no.2 vide representation submitted by the applicant, it will be proper if the representation is considered and disposed of by him. That being the case,



we are of the opinion that it would be appropriate to dispose of this OA at this stage with a direction to Respondent no.2 to consider the representation of the applicant and also the various other aspects as have been raised by the applicant and dispose of the same by issuing a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.



(Bharat Bhushan)
Member(J)



(Sarweshwar Jha)
Member(A)

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