

(2014) 02 DEL CK 0304

In the Delhi High Court

Case No : Writ Petition (C) No. 1183/2014

National Council of Education Research and Training

APPELLANT

Vs

Parash Ram and Others

RESPONDENT

Date of Decision : 21-02-2014

Acts Referred:

Citation : (2014) 2 ILR 1496

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J.

Bench : Division Bench

Advocate : Anand Nandan, Advocate, for the Appellant; Shankar Raju and Nilansh Gaur, for the Respondent

Judgement

Gita Mittal, J.

Caveat 185/2014

Since the Caveator/respondents has been represented through counsel and has been heard, the caveat stands discharged.

C.M. No. 2472/2014 (for exemption)

Exemption is allowed subject to just exceptions.

Application is disposed of.

W.P.(C) 1183/2014 & C.M. No. 2471/2014 (for stay)

1. The writ petitioner assails the order dated 6th November, 2013 passed by the Central Administrative Tribunal allowing the O.A. No. 1007/2013 which was filed by the respondents.

2. It is noteworthy that O.A. No. 1007/2013 was filed by seven persons (including the respondents herein) namely, Mr. Parash Ram, Mr. Ravinder Singh, Mr. Ranbir S. Parashar, Mr. Dinesh K. Tokas, Smt. Kamal Sharma, Smt. Prem Lata Gianey and Mr. Ved Prakash contending that they were placed under suspension

vide orders dated 17th and 19th July, 2012 in terms of sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965. The suspension was reviewed by the Review Committee vide order dated 25th October, 2012 whereby it was extended for another period of three months.

3. The respondents premised their application before the Tribunal on the plea that the review of suspension was due in accordance with law on 17th October, 2012 but it took place only on 25th October, 2012. As such, the suspension not having been reviewed within the time prescribed under Rule 10(6) and (7) of the CCS (CCA) Rules, 1965, the continued suspension beyond 90 days after the issuance of the order dated 17th July, 2012 and 19th July, 2012 was null and void.

4. This contention of the respondents was accepted by the Tribunal placing reliance upon sub-rule (6) and (7) of Rule 10 of CCS (CCA) Rules, 1965. The Tribunal has also placed reliance on a pronouncement of Supreme Court reported in Union of India (UOI) and Others Vs. Dipak Mali, wherein it has been held that by operation of Rule 10(6), the suspension order would not survive after a period of 90 days unless it stood extended after review.

* The Tribunal has concluded that the explanation of the present petitioner was not convincing. Reference has been given to three other orders passed by the Coordinate Benches in similar circumstances, accepting challenges to extension of suspension on a similar ground.

5. In this background, by the order dated 6th November, 2013, the Tribunal accepted the challenge by the applicants and held that the order dated 17th July, 2012 and 19th July, 2012 had become invalid due to non-compliance of sub-rule (6) and (7) of Rule 10 of CCS (CCA) Rules, 1965. The Tribunal directed that the orders of suspension in these cases would be deemed to have been revoked from the expiry of the prescribed period i.e. 17th October, 2012 and 19th October, 2012. The Tribunal directed that the applicants shall be treated on duty on the aforesaid dates with all consequential benefits, including arrears of pay and allowances. The respondents were directed to pass an order in terms thereof within a period of 15 days from the date of receipt of copy of that order.

6. We may note that the petitioners herein had sought review of the order dated 6th November, 2013 by way of R.A. No. 193/2013 which was rejected by the Tribunal vide order dated 24th December, 2013.

7. Mr. Shankar Raju, learned counsel appearing on behalf of the private respondents in this writ petition has informed us that in compliance of the order of the Tribunal, the petitioner has passed an order dated 21st November, 2013 revoking the suspension of three persons, namely, Smt. Kamal Sharma, Smt. Premlata Gianey and Sh. Dinesh K. Tokas with effect from 17th October, 2012 and has also granted all consequential benefits including arrears of pay and allowances. No reason is forthcoming for why the present respondents are not entitled to the same relief.

8. The petitioners have issued a fresh order of suspension dated 1st August, 2013 against the present respondents which stands challenged before the Tribunal. Given the fact that the order dated 1st August, 2013 is sub-judice before the Tribunal, so far as grant of consequential benefits to the respondents is concerned, for the time being, the same has to be restricted up to 1st August, 2013. Parties shall abide by the adjudication by the Tribunal so far as the challenge to the order dated 1st August, 2013 is concerned. However, the petitioners are bound to comply with the order dated 6th November, 2013.

Appropriate orders in this regard shall be passed within 15 days from today.

9. This writ petition and the stay application are dismissed in the above terms.