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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4756/2019**

KENDRIYA VIDYALAYA SANGATHAN Petitioner

Through: **Mr. U.N. Singh, Advocate.**

versus

REKHA JAIN

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

08.05.2019

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C.M. No. 21163/2019

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 4756/2019 and C.M. No. 21162/2019

3. The Kendriya Vidyalaya Sangathan (KVS) assails the order dated 06.12.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in RA No.200/2018 in O.A. No.3782/2013. The Tribunal has rejected the said review application preferred by the petitioner.

4. The aforesaid review application has been preferred by the petitioner

to seek review of the earlier order dated 18.05.2018 passed in C.P. No.56/2018 filed in O.A. No.3782/2013. Vide order dated 25.07.2017 passed in O.A. No.3782/2013, the Tribunal directed the petitioner to pay salary to the respondent for the period from 14.12.2009 to 02.07.2012 in accordance with FR 54.

5. There was non-compliance of the said order, and consequently, the respondent preferred CP No.56/2018. On 18.05.2018, while examining the said contempt petition, the Tribunal passed the following order:

“Shri S. Rajappa, learned counsel for the respondents, has placed on record a copy of the order dated 12.04.2018 passed by the respondents in compliance of the order of this Tribunal. We have perused the same and the order has not been fully complied. Learned counsel for the respondents seeks four weeks’ time for reporting full compliance order. Prayer is allowed.

List on 01.08.2018.”

6. The petitioner then preferred the review application submitting that in terms of Rule 54(4) the Competent Authority was empowered to issue a notice to the government servant regarding the quantum of amount to be paid to him/ her towards pay & allowances for the period from the date of dismissal/ removal/ compulsory retirement to the date of reinstatement. The Tribunal has not found any merit in this submission, and consequently, dismissed the review application.

7. In the present case, the respondent was charge-sheeted. The revisionary authority has, however, completely exonerated the respondent. That being the position, the case is squarely covered by FR 54(2) which,

inter alia, states that where the Competent Authority which passed the order of reinstatement is of the opinion that the Government servant who had been dismissed or removed or compulsory retired has been fully exonerated, the Government servant shall, subject to the provisions of sub-Rule (6), be paid the full pay & allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be. Thus, subject to compliance of sub-Rule (6) – which is only a procedural requirement, the exonerated Government servant will be entitled to full pay & allowances for the period in question.

8. Reliance placed on sub-Rule (4) of FR 54 is completely misplaced. It applies to cases “*other than covered by sub-rule (2)*”. Since the present case is covered by sub-rule (2) of FR 54, no reliance could be placed on sub-rule (4).

9. We, therefore, find no merit in the present petition and dismiss the same.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 08, 2019

B.S. Rohella