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Central Administrative Tribunal, Principal Bench

Original Application No.292 of 2002

New Delhi, this the 7th day of February, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. M.P. Singh, Member (A)

Shri Krishan Kumar Thakur
S/o Shri D.C. Thakur,
R/o A-1033, Jahangirpuri,
Delhi-110033
And Ex. TGT (Gen. Math)
Govt. Boys Middle School
Lancer Road, Delhi-110054

....Applicant

(By Advocate: Shri V.K. Malhotra)

Versus

1. Union of India through
The Secretary
Ministry of Human Resources & Development
(Department of Education)
New Delhi

2. The Lt. Governor
Through
Principal Secretary (Education)
Delhi Secretariat,
Govt. of NCT of Delhi

3. The Director of Education
Old Secretariat
(Directorate of Education)
Government of National Capital
Territory of Delhi, Delhi

....Respondents

O R D E R (ORAL)

By Hon'ble Mr. M.P. Singh, Member (A)

The applicant was appointed as Primary Teacher in Municipal Corporation of Delhi on 16.9.63 and he worked there till 15.2.80. Thereafter he was promoted as T.G.T. and was posted in the Directorate of Education, Delhi w.e.f. 16.2.80. During the service period, he applied for and was selected for deputation to South Africa on 9.6.87 for a period of three years which was subsequently extended for two more years till 9.6.92. The applicant did not report for duty on completion of five years deputation but overstayed in South Africa till


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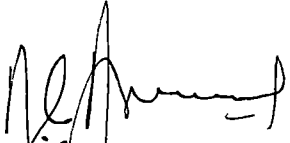
5.12.93. He joined his parent department on 6.12.93 and on 7.12.93, he applied for voluntary retirement and without getting any permission for leave, left the country on 22.1.94. The disciplinary proceedings were initiated against the applicant and in the enquiry held, charge no.2 was proved whereas charge no.1 was not proved. The applicant was given a copy of the enquiry officer's findings and was asked to submit his representation. The applicant submitted his representation and the disciplinary authority, after taking into consideration the report of the enquiry officer, representation of the applicant and other available material, imposed the penalty of removal from service upon the applicant. Being aggrieved, the applicant filed OA-748/2000 in the Co-ordinate Bench of this Tribunal. The Tribunal by its order dated 12.5.2000 dismissed the OA on the ground that the applicant had not availed of departmental remedies. Thereafter the applicant filed his appeal against the order of the disciplinary authority and again filed an OA bearing No.179/2001 which was disposed of on 30.1.2001 with a direction to the respondents that they shall pass a detailed, speaking and reasoned order on the applicant's appeal within a period of two months from the date of service of a copy of the order. The respondents vide their order dated 26.3.2001 have decided the appeal by rejecting the same. The applicant has thereafter filed the present OA claiming the relief by praying for directions to the respondents to grant him retiral benefits.

2. On perusal of the documents, we find that the applicant has been imposed the penalty of removal from service for his wilful absence from duty by the respondents. Since the penalty of removal has been imposed upon the applicant, he is not entitled for any retiral benefits and, therefore, the relief claimed by the applicant for retiral benefits is not admissible to him and the OA is liable to be dismissed.

3. During the course of arguments, learned counsel for the applicant drew our attention to the decision of the Tribunal dated 22.7.99 in OA No.898/94. He submitted that the applicant in that OA being similarly situated, had been allowed the retiral benefits although the penalty of removal from service had been imposed upon him. On perusal of the order dated 22.7.99 in OA-898/94, we find that the said case does not lay down any law and is not applicable in the circumstances of the present case.

4. For the reasons recorded above, we do not find any merit in this OA which is accordingly dismissed in limine.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

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