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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. NO. 361/2002 &
M.A. NO. 358/2002**

New Delhi this the 28th day of November, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

Pradeep Kumar
S/O Late Shri Shyam Bihari
R/O B-1913, Shastri Nagar
New Delhi-110052.

....Applicant

(In person)

-versus-

1. Director of Education
C/o Directorate of Education
Govt. of NCT of Delhi
(Delhi Administration)
Old Sectt., Delhi.
2. Administration Officer
Establishment-IV Branch
C/o Directorate of Education
Govt. of NCT of Delhi
(Delhi Administration)
3. Deputy Director of Education
District North, Lucknow Road
C/o Directorate of Education
Govt. of NCT of Delhi
(Delhi Administration)
New Mall Road, Timarpur
Delhi-110054.
4. The Principal/Vice-Principal
Govt. Girls Senior Secondary School No.2
C/o Directorate of Education
Govt. of NCT of Delhi
(Delhi Administration)
Shakti Nagar, Delhi-110007.
5. The Principal/Vice Principal
Govt. Sarvodaya Kanya Vidyalaya
C/o Directorate of Education
Govt. of NCT of Delhi
(Delhi Administration)
Timarpur
New Delhi-110054. Respondents

(Shri Mohit Madan, proxy for Mrs. Avnish
Ahlawat, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

MA No.358/2002

We are satisfied with the grounds mentioned in M.A.No.358/2002 seeking condonation of delay in filing OA No.361/2002. Miscellaneous Application is granted.

O.A.No.361/2002

Applicant (Pradeep Kumar) had joined as a part time Tabla Player. He was transferred to Sarvodaya Kendriya Vidyalaya, Timar Pur on 23.11.1990. He was being paid specific amount on monthly basis. By virtue of the present application, he seeks that he should be regularised as a Tabla Player and paid the salary of a regular employee in that capacity.

2. Application has been contested. The respondents' claim is that the services of the applicant had been engaged as a part time Tabla Player at fixed remuneration from the contingency funds. His services were taken for a short specified period i.e for four hours a day including the lunch hours. The part time employees are not allowed to be paid the remuneration of the days he remains absent. Applicant was appointed as a part time Tabla Player to cope up with the circumstances. The respondents contend that there



is no post of Tabla Player in the schools run by them. The only post available is of a Music Teacher. The appointment to the said post can be made as per the rules.

3. An objection had also been taken that the applicant had deliberately not appended a copy of the appointment letter and in any case, the applicant cannot be appointed de hors the rules.

4. The applicant had appeared in person and made his submissions. After hearing the parties, we find that the application is totally devoid of any merit. Reasons are obvious. But before recording the reasons, it can well be mentioned that the applicant during the course of submissions urged that he is only interested to be regularised as a Tabla Player. It was pointed as already mentioned above that there is no post of Tabla Player in the office of the respondents. Once there is no such post, indeed, the applicant cannot seek regularisation against a non-existent post.

5. Be that as it may, otherwise also admittedly the applicant had been appointed as a part time Tabla Player though he feels shy of producing the appointment letter but he is a part time Tabla Player. He cannot claim regularisation even against a regular post because he had been

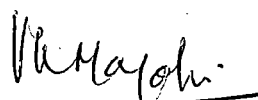
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appointed on contract basis.

6. Otherwise also our attention has been drawn to the fact that only other post available is that of Music Teacher. There are recruitment rules for the said post that had been framed on 31.7.1980. Once there are recruitment rules, a person can only be appointed in accordance with the same. This Tribunal will not direct any appointment de hors the rules and this being the position, the applicant's claim that he should be regularised as a Tabla Player is devoid of any merit.

7. Resultantly, the application being without merit must fail and is accordingly dismissed. No costs.

Announced.


(V.K. Majotra)
Member (A)


(V.S. Aggarwal)
Chairman

/sns/