



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2917/2018

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Reserved on: 11/02/2020

Pronounced on: 12.03.2020

Hon'ble Mr. S. N. Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

Navanita Chowdhury,
Aged about 60 years,
W/o Mr. Tapas Chowdhary,
R/o K-2056, CR Park, IInd Floor,
New Delhi – 110019.
Retired PGT from
Sarvodaya Kanya Vidyalaya,
Chirag Delhi, Soami Nagar,
New Delhi – 17.
Mob.9818999859

...Applicant

(By Advocate: Ms. Ranjit Sharma)

Versus

1. Govt. of NCT, Delhi,
Through the Principal Secretary,
Department of Education,
At the old secretariat,
Delhi – 54.
2. Director of Education,
Govt. of NCT, Delhi,
Old Secretariat, Delhi – 54.

...Respondents

(By Advocate: Ms. Esha Mazumdar)

ORDER**Mohd. Jamshed, Member (A):-**

The applicant superannuated on 31.03.2018 as PGT (Economics) from Sarvodaya Kanya Vidyalaya under the Directorate of Education, Govt. of NCT of Delhi. She had submitted her option dated 13.11.2017 for re-employment w.e.f. 01.04.2018 up to the age of 62 years in terms of the notification dated 29.01.2007 which permits automatic re-employment of superannuated teachers up to the PGT level subject to fitness and vigilance clearance etc. Her vigilance clearance reports and medical fitness certificates were submitted in time. The applicant superannuated from service on 31.03.2018 and made representations for re-employment. The respondents vide order dated 22.06.2018 declined to grant her re-employment on the grounds that her case for re-employment was not recommended by HOS and DDE (Zone-23). The applicant contends that her ACRs have been rated “Good” and “very good” and her result summary has also been excellent. It is also submitted that the notification by the Govt. of NCT of Delhi dated



29.01.2007 specifies automatic re-employment subject to physical fitness and vigilance clearance.

2. As the applicant was denied re-employment Page | 3
she filed this OA seeking relief in terms of quashing of the impugned order dated 22.06.2018. In support of her claim she has annexed vigilance clearance report, medical fitness certificate and notification dated 29.01.2007 issued by Govt. of NCT of Delhi, Directorate of Education, which reads as under:-

“No. F.30.3. (28)/Co-ord./2006/689-703 Dated the 29th January, 2007

Notification

In pursuance of Cabinet Decision No. 1113 dated 4.9.2006 conveyed vide letter NO. F.3/3.2004-GAD.CN/20491-502 Dated 8.08.2006, The Lieutenant Governor, Government of National Capital territory of Delhi is pleased to allow automatic reemployment of all retiring teachers upto PGT level. Subject to fitness and vigilance clearance till they attain the age of 62 years or till clearance from government of India for extending retirement age is received, whichever is earlier. The terms and conditions of re-employment are being notified separately.

By order and in the name of
The Lt. Governor of the
National Capital Territory of Delhi”

3. She has challenged the impugned order dated 22.06.2018, which is extracted as under:-

“Whereas, a request dated 13.11.2017 was made by Smt. Navanita Chowdhary, PGT (Eco.), E.ID 19880368 for re-employment to the post of PGT (Eco.) w.e.f. 01.04.2018. She retired from Govt. service on 31.03.2018 from SKV, Chirag Delhi;



And whereas, the professional fitness was not given by HOS, SKV, Chirag Delhi. Her case for re-employment was not recommended by HOS and DDE (Zone-23);

Now therefore, in exercise of powers vide order no. F.30-3(28)/Co-ord./2006/4637-72 dated 28.02.2007 of Joint Secretary (Education), Directorate of Education and after assessing her professional fitness, Smt.Navanita Chowdhary, PGT (Eco.) retired. E.ID 19830368 is not found professionally fit for re-employment to the post of PGT (Eco.) after retirement. And accordingly, her request for re-employment is not acceded to and she is not granted re-employment after retirement on the post of PGT (Eco.) in Directorate of Education.

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(Savita Drall)
Dy. Director of Edn. (South)”

4. It has been submitted by the applicant that she has obtained information through the Right to Information (RTI) Act, 2005 in connection with re-employment of teachers of different subjects revealing that teachers with lower result percentages in class- X and XII than her have been granted re-employment. The order of the respondents in rejecting her re-employment is therefore illegal.

5. The respondents in their counter affidavit opposed the OA and submitted that the notification dated 29.01.2007 allows automatic re-employment subject to fitness and vigilance clearance till they attain the age of 62 years and the order dated



22.06.2018 declining the request of applicant for re-employment has been passed after due consideration. It is further submitted that the applicant's proposal for re-employment was forwarded to south district for necessary action. It was, however, observed that the result of class XII that the applicant taught was 100% in 2015-16 and declined to 85% in 2016-17 & 82.6% in 2017-18. This shows that her performance output as a teacher was not up to the mark, as is evident from the declining percentages. It is also stated that even her students had expressed dissatisfaction with her teaching methods and made written complaints about the same. A show cause notice was also issued to the applicant followed by a warning letter in this respect. It is also reiterated by respondents that re-employment is not a fundamental right and automatic re-employment as per the policy is subject to professional fitness, physical fitness, vigilance clearance and other reports of her satisfactory performance. All these aspects were examined and on the basis of reports obtained from HOS, wherein the applicant was not granted professional fitness, her case for re-



employment was not recommended by HOS/DDE (Zone-23) and, accordingly, the Competent Authority did not accede to her request for re-employment post retirement.

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6. We heard Mr. Ranjit Sharma, learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents, perused the pleadings and the documents on record.

7. The applicant who was PGT (Economics) superannuated on 31.03.2018. She had made request for re-employment on 13.11.2017 after which necessary formalities including vigilance clearance etc. were completed and her case for re-employment was forwarded to the Competent Authority. As per the documents on record, she was granted vigilance clearance and was also declared medically fit. The record also reveals that her ACRs were graded "Good" and "Very Good". Her performance in terms of her teaching result for class XII for the last three years indicated that the result which was 100% in 2015-16 declined to 85% in 2016-17 and further declined to 82.6% in 2017-18. Respondents have also enclosed copies of



complaints made by the students against her teaching performance to the Principal. The show cause notice issued by the Principal to the applicant indicated non-satisfaction of the students with her method of teaching. This was followed by a warning letter. Record also indicated that the HOS has made categorical observations on the proposal for the re-employment of the applicant. Relevant para of which reads as under:-

“As I have already stated at para (11) to (13) I once again conclusively and categorically state that in light of date taken from DOE NCT site Delhi result of the concerned teacher and insatisfaction expressed by the students of class XI to XII, I am not in a position to recommend her case for re-employment.”

8. Learned counsel for the applicant strongly argued that the re-employment is automatic in terms of the notification and, therefore, it is a matter of right if the applicant is medically fit and vigilance clearance is available. For the declining result of the applicant it is submitted that in some other cases, teachers with lower percentages have also been given re-employment. However, these papers produced during the arguments are not relevant as these are not part of pleadings and are incomplete in respect of information. On the other



hand, the details provided with regard to a few teachers who were re-employed showed improvement in their percentage in terms of result in the classes that they taught. Case to case comparison cannot be made as the results indicated in the documents are only for one particular year and cannot throw any light on the results of the previous years. Learned counsel for the respondents has relied upon catena of judgments of Hon'ble Apex Court, Hon'ble High Courts and the Tribunal in support of her arguments. It is obviously a settled law that re-employment cannot be claimed as a matter of right.

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9. The Hon'ble Delhi High Court in **C.K.P. Naidu vs. Government of NCT of Delhi & Ors** (W.P. (C) 822/2014) clarified the proposition. The relevant para reads as under:-

“8. We have considered the rival submissions. This Court has taken the view that even on re-employment, a retired Principal has no right to be re-employed as a Principal and under the scheme, he can only be re-employed as a PGT. In this regard, reference may be made to [Shashi Kohli vs. Directorate of Education](#) in WP(C) No. 4330/2010 decided on 29.04.2011. The Court held that the grant of extension is not a matter of right. The retired Principal/ Vice-Principal only has a right to be considered, that too only for posts till PGT, and the school has a right to deny re-employment. The petitioner has no vested right to re-employment. As per the scheme,



the re-employment can be to the post of PGT, and not to the post of Principal. On this short ground, the impugned order of the Tribunal, granting re-employment to Naidu cannot be sustained.”

10. The Hon’ble Delhi High Court in **Puran Lal**

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Tewatia vs. Government of NCT of Delhi & Ors

(W.P. (C) 10209/2019) also clarified the

proposition. The relevant para reads as under:-

“And whereas, it has been observed by the Hon’ble High Court of Delhi vide order dated 29.04.2011 passed in WP (C) No. 4330/2010 title Shashi Kohli V/s Directorate of Education referring to judgments passed by the Division Bench of the High court in the matter of Prof. P.S. Verma V/s Jamia Milia Islamia University & Ors. And Dr. V.K. Aggarwal V/s University of Delhi & Ors. had held that re-employment is not a matter of right and has observed as under:-

“At the cost of repetition, it may be stated that the petitioner has no right to re-employment. She only has a right to be considered and the school has a right to deny her re-employment, if after considering her overall performance as a teacher, it finds that she is not fit for re-employment. For the reasons delineated about, I find myself one with respondent No. 2, and hold, that the action taken by it in not granting re-employment to the petitioner suffers from no illegality.”

The writ petition has no merit. The same is dismissed.”

11. In OA No. 3378/2018 decided on

18.03.2019, this Tribunal observed as under:-

“4. We also find that the judgment relied upon by the respondents in the case of Shashi Kohli Vs. Directorate of Education & Anr. [WP(C) NO. 4330/2010, decided on 29.04.2011] is squarely applicable to this case to the extent that the re-employment is not a matter of right and in which the following observation was made:-

“At the cost of repetition, it may be stated that the petitioner has no right to re-employment. She only has a right to be considered and the school has a right to deny her re-employment, if after



considering her overall performance as a teacher, it finds that she is not fit for re-employment. For the reasons delineated about, I find myself one with respondent No. 2, and hold, that the action taken by it in not granting re-employment to the petitioner suffers from no illegality.

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The writ petition has no merit. The same is dismissed.”

5. In view of the above facts and circumstances, we do not find any merit in this OA and the same is dismissed. Consequently, MA NO. 3795/2018 seeking exemption from filing the legible/taped documents is also dismissed. No costs.”

12. Based on the observations made by the Hon'ble Delhi High Court and the views of the Tribunal in a similar case, it is well established that the re-employment cannot be claimed as a matter of right. In the case of the applicant herein, her professional fitness was not found upto the mark. Her case was not recommended by the HOS & DDE and a considered decision was taken by the Competent Authority not to accede to her request for re-employment.

13. We do not find any infirmity in the order passed by the respondents. There is no merit in the present OA and the same is, accordingly dismissed. Pending MAs, if any, shall stand disposed off.

There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

/Ankit/

(S.N. Terdal)
Member (J)