



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 3252/2019

This the 6th day of March, 2020

**Hon'ble Mr. S.N. Terdal, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Jyoti, Age-31 years
Sub: Regarding grant of NOC
Post – Assistant Teacher
Group: B
D/o Sh. Mahender Singh,
R/o-H.No-465A, Punjabi Gali
Bankner, Narela, Delhi-40

...Applicant

(By Advocate: Sh. Sachin Chauhan)

VERSUS

1. New Delhi Municipal Council through its Chairman,
Palika Kendra,
New Delhi.
2. The Director (Education),
NEW DELHI MUNICIPAL COUNCIL,
Palika Kendra,
New Delhi.
3. The Chief Secretary,
Govt. of NCTD,
A-Wing, 5th Floor,
Delhi Secretariat,
New Delhi-110113
4. The Director,
Directorate of Education,
Govt. of NCTD
Old Secretariat, Near Vidhan Sabha,
Civil Lines,
Delhi 110054

...Respondents

(By Advocate: Ms. Sriparna Chatterjee)

ORDER (Oral)**Hon'ble Mr. S.N. Terdal, Member (J):**

Heard Sh. Sachin Chauhan, learned counsel for the applicant and Ms. Sriparna Chatterjee, learned counsel for the respondents. We perused the pleadings and all the documents.

2. The relevant facts of the case are that the applicant was working in Respondent No. 1 (NDMC) before applying to the post of Assistant Teacher (Primary) in Directorate of Education, Govt. of NCT of Delhi. He was selected in the selection process conducted by the DSSSB and thereafter, an offer of appointment was issued to him subject to conditions, amongst others, of production of 'No Objection Certificate' (in short, NOC) from his earlier employer, namely NDMC.

3. The respondents have filed their counter affidavit, in which they have stated that there are large number of such Assistant Teachers, who have applied for NOC and already out of 301 of sanctioned post of Assistant Teachers, 265 Assistant Teachers are working in their organisation and already 36 vacancies are existing in their organisation and further the applicant while applying he had not sent his application through the respondents NDMC and as per the Office Memorandum



of DoP&T dated 23.12.2013, respondents cannot spare the applicant as there is shortage of Teachers as stated above. The detailed reply, in this regard, filed by the respondents is extracted below:-

"2. That in respect of the prayer of the applicant it is submitted that a large number of request were received from assistant teachers working in NDMC schools for grant of NOC to join as assistant teachers/TGTs in MCD schools/DEO, GNCTD. As on date against the total authorization of 301 Assistant Teachers in NDMC school, only 265 teachers are holding the posts. There is a deficiency of 36 Assistant Teachers in NDMC school. It was therefore, decided that if NOC would be granted to all these teachers who have been selected in the MCD/DOE, the deficiency of Assistant teacher in NDMC Schools would become more wide. The request that were received by the respondent was therefore, divided into 4 categories and it was decided that only assistant teachers selected for TGT who had requested for NOC at the time of applying for the said post would alone be granted NOC. So far as the case of the applicant is concerned, she had submitted an application seeking NOC to join the DOE as assistant teacher through DSSSB under the post code 89/17. The letter of intimation given by the applicant was not forwarded by the principal of the school. In this context the consolidated instructions on forwarding of applications for government servants for outside employment were issued vide O. M dated 28020/1/2010-ESTT(C) dated 23.12.2013, was referred to and relied upon, wherein under the general guidelines it stated that in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding of his application even if otherwise the application would have been forwarded. Where for good and sufficient reasons, an application is withheld, no entrenchment of any constitutional right is involved. Both permanent nonscientific and nontechnical employees as well as permanent scientific and technical employees could be given 4 opportunities to apply for outside post, except where withholding of any application is considered by the competent authority to be justified in the public interest. A permanent Government servant cannot justify complain of hardship or harsh treatment if is application for any other post or employment is withheld. The application of the applicant who was working as assistant teacher was forwarded to the Director Education for kind consideration. However, keeping in view the overall shortage of teachers in NDMC and the policy decision referred above, it was decided not to grant NOC to her. As per the policy decision of the competent authority it was decided that NOC would be granted only to those

teachers who were selected for TGT and had requested for NOC at the time of applying for the said post.”



4. At the time of hearing, learned counsel for the respondents produced the above stated DoP&T OM dated 23.12.2013, which specifically says that employee cannot be spared if he is assigned a project or important work in hand. The relevant portion of OM is extracted below:-

*“These guidelines relate to forwarding of applications of Government servants as direct recruit for posts within the Central Government, State Governments, Autonomous / Statutory Bodies, CPSEs etc. It may be noted that in a case in which a particular employee **cannot be spared without serious detriment to important work in hand**, public interest would justify withholding of his application even if otherwise the application would have been forwarded. It may be added for information that where for good and sufficient reasons as application is withheld no infringement of any Constitutional right is involved.”*

(Emphasis Supplied)

From the relevant portion of the reply affidavit extracted above, nowhere it is stated that the applicant was entrusted with any urgent work or any important project and by sparing him, public interest would be affected.

5. In view of the facts narrated above, we are of the view that the OM dated 23.12.2013 will not come in the way of issuance of NOC and in view of the applicant having been already appointed and the applicant having been given very limited time to produce the NOC, we



allow this OA and direct the respondents to issue NOC to the applicant within 15 days from the date of receipt of a certified copy of this order. Further, the respondent, Directorate of Education, is directed to wait until the NOC issued by the respondent, NDMC and an offer of appointment shall not be treated as lapsed in the meantime. No order as to costs.

(A.K. Bishnoi)
Member (A)

(S.N. Terdal)
Member (J)

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