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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No 1395./2001  
T.A.No.

Date of Decision 1.4.2002

Ms.Yasmin Mehdi ..... Petitioner

Sh.B.S. Mainee ..... Advocate for the Petitioner(s)

VERSUS

UOI & Ors ..... Respondent

Shri B.S. Jain ..... Advocate for the Respondent(s)

Conam:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri Govindan S.Tampi, Member (A)

- 1. To be referred to the Reporter or not? Yes
- 2. Whether it needs to be circulated to other Benches of the Tribunal? No

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. 1395 OF 2001

New Delhi this the 1st day of April, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).  
Hon'ble Shri Govindan S. Tampi, Member (A).

Ms. Yasmin Mehdi,  
D/o Syed Ali Mehdi,  
Substitute Teacher in  
Northern Railway Inter College,  
Tundla.

... Applicant.

(By Advocate Shri B.S. Mainee)

Versus

Union of India through

1. The Secretary,  
Railway Road,  
Ministry of Railway,  
Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Divisional Railway Manager,  
Northern Railway,  
Allahabad.

(By Advocate Shri B.S. Jain)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairmaan (J).

The applicant has impugned the order issued by the respondents dated 5.3.2001 informing her that as the certificate in Hindi she has obtained from Gandhi Hindi Vidyapith, Prayag, Allahabad is not recognised for B.Ed., she was not eligible to hold the post of Assistant Teacher. Accordingly, the respondents had proposed to terminate her services.

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2. The applicant had filed earlier an application (OA 161/1997) before the Tribunal (Allahabad Bench) which was disposed of by order dated 22.2.2000 (Annexure R-2). By this order, 3 O.As, including OA 161/1997 were disposed of by a common order. It has been stated in Paragraph 4 of the order that the present applicant and the other two applicants were appointed as substitute Assistant Teachers and the terms of their appointment letter had specifically mentioned the condition that they will have no claim for regularisation of their service unless they were empanelled by Railway Recruitment Board (RRB). Another condition was that their substitute service will automatically stand terminated on expiry of six months or till a regular empanelled candidate becomes available. It was further noted that the applicant in OA 161/97 had claimed regularisation of her service. After considering the pleadings and the submissions made by the learned counsel for the parties, the Tribunal came to the conclusion that the present applicant and the other applicants before that Bench cannot put their claim for regularisation of their service as a matter of right because none of them could qualify the test for being empanelled to the post of Assistant Teacher as per the terms of their service. In Para 10 of the order, the Tribunal in the facts and circumstances of the case, had directed that the applicants in these 3 O.As should be allowed to continue in the service with the benefits they were then getting till the decision in respect of regularisation of their services is finally taken and the order passed in that regard by the respondents.

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3. Shri B.S. Jain, learned counsel has submitted that as the applicant had previously filed OA 161/97 before the Allahabad Bench of the Tribunal, she cannot now file another application before the Principal Bench as this Bench has no territorial jurisdiction in the matter. He has submitted that this argument has been disputed by Shri B.S. Mainee, learned counsel who has submitted that the impugned letter dated 5.3.2001 has been issued by DRM's Office, Allahabad based on the letter from General Manager (P)), New Delhi, on the subject of regularisation of Substitute Teachers.

4. Another contention raised by the learned counsel for the ~~applicant~~<sup>respondents</sup> is that the impugned letter is only a show cause notice to which, according to the respondents, she has not given any reply, whereas learned counsel for the applicant has submitted that the representation has been submitted by the applicant on 18.3.2000 and was received by the respondents on 21.3.2001. This O.A. has been filed on 29.5.2001. Noting the fact that the respondents themselves have engaged the applicant as Primary School Teacher, which duty she has been discharging for several years, the Tribunal vide order dated 31.5.2001 had restrained the respondents from passing any adverse order in furtherance of the show cause notice dated 5.3.2001. That interim order has been continued from time to time.

5. The respondents have taken a preliminary objection that the O.A. is premature and not maintainable under Section 20 of the Administrative Tribunals Act, 1985. We see merit in this submission made by the learned counsel

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for the respondents that the applicant ought to have given reasonable time to the respondents to respond to her representation dated 18.3.2001 which she has not done. Shri B.S. Mainee, learned counsel, has very vehemently submitted that for a Primary School Teacher, no B.Ed. degree is required and on this ground he has contended that the respondents cannot terminate the services of the applicant because her qualification from Gandhi Hindi Vidyapith, Allahabad, is not recognised. She has taken this ground as well as other grounds in her representation and in the circumstances, we consider that some time ought to be given to the respondents to deal with the same. Learned counsel for the applicant has further pointed out that in the counter reply filed on behalf of respondents 2 and 3, they have stated that the applicant has not given any reply to the show cause notice and instead has approached the Tribunal by filing the present O.A.

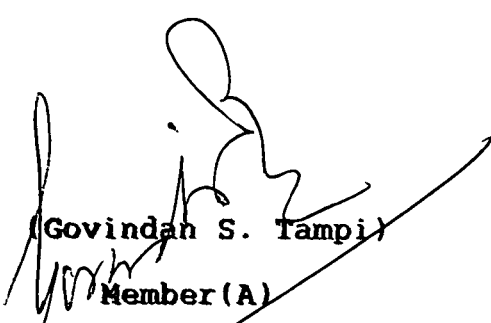
6. Regarding the preliminary objection taken by Shri B.S. Jain, learned counsel that the Principal Bench of the Tribunal does not have jurisdiction in the matter, it is relevant to note that the impugned show cause notice dated 5.3.2001 has been issued in pursuance of the letter issued by the General Manager (P), New Delhi. Shri B.S. Mainee, learned counsel has relied on the judgement of the Tribunal in **Pitambar & Ors. Vs. General Manager, Northern Railway and Ors.** (OA2609/99), decided on 4.7.2000 (copy placed on record). In the facts of the present case, and for the reasons given in OA 2609/99, we reject the objection taken by the learned counsel for the respondents that the Principal Bench does not have jurisdiction in the matter, having regard to the provisions of Rule 6 (i) (ii)


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of the CAT (Procedure) Rules, 1987 which has followed the judgement in **Alok Kumar Singh & Anr. Vs. Union of India & Anr.** (Full Bench Judgements of CAT, 1991-1994 (Vol.III) Page-7).

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7. In the facts and circumstances of the case, O.A. is disposed of with a direction to the respondents to pass a reasoned and speaking order on the representation made by the applicant dated 18.3.2001 (Anexure A-1 of the O.A.), in accordance with law, rules and instructions. This shall be done within two months from the date of receipt of a copy of this order, with intimation to the applicant. In the circumstances of the case, in case the respondents pass any adverse order against the applicant by way of termination of her services, that order shall not be given effect to for a period of one month from the date of issuance of the order. No order as to costs.

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(Govindan S. Tampi)  
Member (A)

  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)

SBD