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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1472/2001

New Delhi this the 5th day of December, 2001.

HON'BLE MR. V.K. MAJOTRA, MEMBER (ADMNV)  
HON'BLE MR. KULDIP SINGH, MEMBER (JUDICIAL)

Shri S.H.K. Suri.  
S/o Shri M.H.K. Suri.  
R/o A-90, Amar Colony.  
Lajpat Nagar.  
New Delhi-110024.

-Applicant

(By Advocate Shri S.K. Shukla)

-Versus-

1. Director of Education.  
Govt. of NCT of Delhi.  
Old Secretariat, Delhi-54.
2. Joint Director of Edn. (Admn)  
Director of Education.  
Old Secretariat, Delhi-54.
3. Principal.  
G.B.S.S. School No.2.  
Kalkaji, New Delhi-19.

-Respondents

(By Advocate Shri George Paracken)

O R D E R (Oral)

By Mr. V.K. Majotra, Member (Admn):

The applicant has been serving with the Directorate of Education since 14.1.92 as part time P.G.T. (History) in the Adult School, Lajpat Nagar and also in the School of Respondent No.3 as regular full time P.G.T. (History) from 29.12.97 till 5.2.2000. Through an earlier OA No.1879/94 - Govt. Adult Schools Part Time Teachers Association had sought regularisation of their services and grant of full salary as per the scale. That OA was disposed of on 31.1.97 (Annexure A-9) with the direction to the respondents to hold a selection test for regularisation of the applicants within a period of three months. However, in the meantime, the applicants were to continue on the same terms and conditions. It was also directed that those who were not successful in the test were to

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continue in service against the temporary vacancies, if any. The respondents placed all part time Teachers initially in the regular scale vide order dated 29.12.97 (Annexure A-3). On declaration of the results of the test dated 31.3.98 successful candidates were continued in service. The applicant was informed vide order dated 31.3.98 regarding his failure in the test. The applicant has challenged Annexure A-1 order dated 5.2.2000, whereby his explanation was called why he had not intimated the office of the Principal, respondent No.3 about service of order dated 31.3.98 (Annexure A-1 colly.) whereby his provisional appointment in the regular scale was cancelled with immediate effect, in pursuance of the action taken as per the directions of the Central Administrative Tribunal. He has also challenged the order dated 31.3.98.

2. The learned counsel for the respondents took the preliminary objection that the applicant along with others had filed OA-898/98 - Arunesh Awasthi v. Director of Education, seeking the same reliefs as in the present OA. The aforesaid OA was dismissed by order dated 15.1.98 as per Annexure R-2. The controversy raised in the present OA regarding cut off marks was settled vide the said orders, by holding:

"It is within the exclusive competence of the executive to fix cut off marks in any selection and the same cannot be interfered with unless it is found manifestly to be illegal or arbitrary. Merely because applicants were not successful in the selection test does not make the cut off marks illegal or arbitrary as the same was uniform for all.

3. The O.A. warrants no interference. It is dismissed. No costs."

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The learned counsel for the respondents also pointed out that the applicant and others in OA-898/98 also filed CWP No.4101/99 against the aforesaid orders of the Tribunal dated 15.4.99 and that the Writ Petition was also dismissed vide order dated 14.7.99 (Annexure R-3). The applicant also filed a review petition No.62/99 in the said CWP No.4101/99 and the same was also dismissed. as withdrawn vide order dated 25.8.99 (Annexure R-4). Thereafter the applicant filed a review petition No.205/99. which was dismissed on 25.10.99 (Annexure R-5). He again filed CWP No.7153/99 on 24.11.99 in the Hon'ble High Court of Delhi against the order in the aforesaid RA-205/99 dated 25.10.99. which is stated to be still pending. In the OA the applicant has stated that he had not previously filed any application. writ petition or suit regarding the matter under adjudication in the present OA. The learned counsel for the respondents contended that the applicant has suppressed the facts relating to dismissal of his earlier OA and various other cases filed by him. as stated above. Thus. this matter is hit by res judicata.

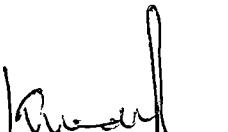
3. The learned counsel for the applicant stated that in applicant's rejoinder it has been denied that the applicant was involved in CWP No.7153/99 as he had never signed the vakalatnama and the other documents in that CWP. To a pointed query the learned counsel on instructions from the applicant conveyed that the applicant had not taken any action either with the High Court or with the Bar Council regarding inclusion of his name in the said Writ Petition without obtaining his signature in the vakalatnama etc. Obviously. applicant's contention in this regard cannot be accepted at all. In any case. the applicant has not denied

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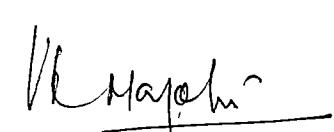
his participation in OA No.898/98 in which applicant, among others, has sought the same relief as in the present case and the said OA was dismissed. He has certainly suppressed these facts in the present OA.

4. On realising that the applicant has suppressed material facts deliberately in his OA, his counsel sought permission to withdraw from the OA.

5. Suppression of material facts in the OA, as established above, is ground enough for dismissal of this OA. Accordingly, this OA is dismissed. No costs.

  
(Kuldip Singh)

Member (J)

  
(V.K. Majotra)

Member (A)

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