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Central Administrative Tribunal
Principal Bench

O.A. 1836/99

New Delhi this the 14 th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Smt. Usha Devi,
W/o Shri Veer Singh,
R/o House No. B-1, Gali No. 9,
Nand Nagri,
Delhi-110 093.

... Applicant.

(By Advocate Shri R.K. Shukla)

Versus

Govt. of NCT of Delhi, through

1. Director of Education,
New Delhi.
2. Principal,
Govt. Girls Sr. Sec. School,
Rani Garden,
Delhi-31.

... Respondents.

(By Advocate Shri Ajesh Luthra)

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Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant, who states that she was initially appointed as Home Science Worker (Lab.) on part-time basis with Respondent 2, has filed this application against an oral order terminating her services in March, 1996. She has prayed for a direction to the respondents to reinstate her in service with arrears of difference in pay in terms of the circular issued by the respondents dated 11.5.1994.

2. Shri R.K. Shukla, learned counsel for the applicant has submitted that prior to the filing of this O.A. on 20.8.1999, the applicant had filed CW No. 4126/97 before the Delhi High Court which was withdrawn on 14.7.1999. Liberty was granted by the High Court to approach the Tribunal by the order dated 14.9.1999. He has

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further submitted that as the applicant had been pursuing her remedy before the High Court, the case is not barred by limitation, as liberty had also been granted by the High Court to approach the Tribunal as the matter falls within the jurisdiction of the Tribunal. He has relied on a recent order of the Tribunal dated 30.6.2000 in Smt. Vidhya Vs. Govt. of NCT and Anr. (OA 2722/99), copy placed on record.

3. The respondents in their reply have pointed out that the applicant was appointed as part-time Dom. Sc. Helper in the school in December, 1989 on a remuneration of Rs.100/- per month to be paid out of PTA fund. Shri Ajesh Luthra, learned counsel has submitted that this fund is not part of the contingency fund of the Government, but is a fund set up by the pupils for engaging such part-time workers who worked in the school. He has relied on two other Division Bench judgements of the Tribunal in Smt. Dharamwati Vs. The Director of Education (OA 2406/94) and Smt. Bimlesh Sharma Vs. Govt. of NCT, Delhi & Ors. (OA 722/98) (copies placed on record). In these cases, it has been held that since the applicants were being paid their wages from the Pupils Fund and not paid salary out of Government fund, they were not Government employees and, therefore, the Tribunal had no jurisdiction in the matter. These two cases were, therefore, dismissed by the Tribunal.

4. However, in Smt. Vidhya's case (supra), the Single Bench of the Tribunal has observed that taking into account that the applicant had worked for 12 long years with Respondent 2 as an attendant in the Home Science

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Laboratory, "it is not open to respondents to disassociate themselves from the P.T.A. which.....is very much a part and parcel of the school". In this view of the matter, it was held that the applicant made good her claim, atleast for being considered sympathetically at the hands of the respondents. In this order, reference had been made to an earlier decision of the Tribunal in **Varsha Rani Vs. Govt. of NCT & Anr.** (OA 1673/96), decided on 1.7.1997 (SB) which has followed another Single Bench order dated 20.3.1997 in **Ram Suresh & Ors. Vs. Govt. of NCT of Delhi** (OA 2468/94). The pronouncements of the Tribunal in the cases of **Smt. Dharam Wati and Smt. Bimlesh Sharma** (supra) are of the Division Bench whereas the other cases are of Single Benches. Learned counsel for the applicant has submitted that while with-drawing the writ petition filed in the High Court, liberty had been granted to the applicant to approach the Tribunal, as the matter falls within the jurisdiction of the Tribunal which is contrary to the orders of the Tribunal dated 19.3.1996 and 8.7.1999 (in which I was also a Member). However, it appears from the records that the Division Bench orders of the Tribunal were not placed before the Hon'ble Single Bench in O.A. 2722/99, which has followed the earlier Single Bench order in **Varsha Rani's case** (supra).

5. In the above facts and circumstances, the ratio of the orders of the Larger Bench which have not been set aside by a higher court in appeal is binding on me and I respectfully agree with it. Accordingly, as the applicant has admittedly been paid out of the PTA and not out of Govt. funds, having regard to the provisions of Sections 14 and 19 of the Administrative Tribunals Act, 1985, the

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Tribunal does not have jurisdiction in the matter. The order of the Tribunal (SB) dated 30.6.2000 in OA 2722/99, relied upon by the applicant, being contrary to the orders of the Division Bench pronounced earlier, will, therefore, not assist her.

6. In the result, for the reasons given above, the O.A. fails and is dismissed, leaving it open to the applicant to pursue her remedies in the appropriate forum in accordance with law, if so advised. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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