

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

R.A.No.36/95  
O.A.No.412/94

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New Delhi this the 10th day of March, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)  
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Ms Nilima Roy Choudhary,  
C/o Shri M.R. Bhardwaj, Advocate  
D-7, Hauz Khan,  
NEW DELHI

....Applicant

(By Advocate : Shri M.R. Bhardwaj)

VERSUS

1. Chief Secretary,  
Govt. of the National Capital  
Territory of Delhi  
Old Secretariat,  
DELHI.
2. Secretary (Education)  
Govt of National Capital  
Territory of Delhi  
Old Secretariat,  
Delhi.
3. Director of Education,  
Directorate of Education,  
National Capital Territory  
of Delhi, Old Secretariat,  
Delhi. ...Respondents

(By Advocate : Shri Arun Bhardwaj)

JUDGEMENT

(By Hon'ble Shri B.K.Singh, Member (A) )

This R.A.36/95 has been filed  
against the judgement and order in O.A.No.  
412/92 Ms Nilima Roy Choudhary Vs NCTD  
through Chief Secretary & Others decided  
on 29.11.94.

2. We heard Shri M.R. Bhardwaj,  
learned counsel appearing for the applicant  
and Shri Arun Bhardwaj for the Respondents.

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3. The offer of terms of Temporary/  
ad hoc  
/appointment as music teacher given to  
the applicant have been given in Para-  
5 of the judgement. These are ;

- i) The post is temporary.
- (ii) The period of probation will be two years . The period can be extended at the discretion of the appointment authority.
- (iii) The promotion can be terminated by a month's notice, given by either side, namely the appointee or the appointing authority without assigning any reasons. The appointing authority however reserves the right of terminating his/her services forthwith or before the expiry of a stipulated period of notice by making payment to him/her of a sum equivalent to the pay and allowances for the period of notice or the un-expired probation thereof.

4. These conditions are that the post is temporary, and the period of probation will be two years and probation period can be extended at the discretion of the appointing authority, and the services can be terminated by a month's notice, given by either side, namely - the appointee or the appointing authority.

5. It is admitted that the services of another 10 teachers who did not fulfil the eligibility criteria were also terminated.

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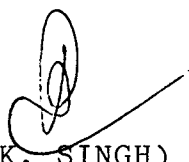
6. This Tribunal does not have any inherent power of review. It is exercised under Order 47 Rule 1 which lays down that a review of the judgement and order can be made if the review applicant is able to show any error apparent on the face of the record. This error can be factual or legal. The review applicant has not been able to show any <sup>apparent</sup> error on the face of the record. The second condition is that the review applicant should be in a position to produce a new and important piece of evidence which after the exercise of due diligence was not within his knowledge at the time hearing or when the order was made. No such evidence has been adduced by the review applicant. Thus the provisions for review laid down under Order 47 rule 1 <sup>is</sup> not available in the application. The third ground has to be analogous to what has been stated above i.e. there should be other sufficient and reasonable cause to warrant a review. \_\_\_\_\_ There is no ground whatsoever available with the review applicant to warrant the review of judgement and order dated 29.11.94.


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6. The termination of service is founded on the right flowing from the offer of appointment itself and prima facie the termination is in consonance with the terms of the offer of appointment and is also in consonance with the provisions of rule 5 ~~of~~ of the CCS (Temporary) Service Rules, 1965. Thus, no illegality or irregularity is discernible in the impugned order of termination. The termination as stated above, is founded on the right flowing from the terms of the offer of appointment itself. Since the termination is contractual and in consonance with the offer of appointment, there is nothing wrong in taking recourse to section 5 of the CCS (Temporary) Service Rules, 1965.

7. The Review Application covering the same grounds already putforth in the main application is not maintainable and accordingly it is dismissed but without any order as to costs.

  
(B.K. SINGH)  
MEMBER (A)

  
(J.P. SHARMA)  
MEMBER (J)