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Central Administrative Tribunal  
Principal Bench

O.A.No.1529/95  
M.A.No.1128/96  
M.A.No.1444/96

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 5<sup>th</sup> day of December, 1996

Balwant Singh Rana  
s/o Shri Prabhu Singh  
aged about: 61 years  
r/o House No.256  
Village & P.O.Khera Kalan  
Delhi - 110 082. .... Applicant

(By Shri B.B.Raval, Advocate)

Vs.

1. Government of National Capital  
Territory of Delhi : through  
The Secretary(Education)  
Old Secretariat  
Delhi.
2. The Director of Education  
Delhi Administration  
Old Secretariat  
Delhi.
3. Shri P.S.Khatkar  
Assistant Social Education Officer(Social Education)  
Delhi Administration  
5/9, Underhill Road  
Delhi. .... Respondents

(By Shri S.K.Gupta and Mrs. Meera Chhibber, Advocates)

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

This case has a long history of litigation. The applicant, a Trained Graduate Teacher (TGT) under the Delhi Administration, applied for and was selected and appointed as Supervisor in the Adult Education Programme on 17.5.1979. The Adult Education Branch had an associated Branch called Social Education Branch with a common Additional Director and Deputy Director. Recruitment Rules for the Adult Education Branch were framed on 27.8.1983 and initially the only channel for promotion from Supervisor to Project Officer in Adult Education Branch was kept reserved for Supervisors and Technical Assistants from the

Social Education Branch. Aggrieved by this, the applicant with another filed an Original Application No.53 of 1986. The OA was allowed by the order dated 19.10.1988. The Recruitment Rules were set-aside to the extent of Supervisors of Adult Education Branch being left out and it was directed that Supervisor in Adult Education Branch with five years of experience in the grade would also be eligible for promotion as Project Officer. Directions were also given that a Review Departmental Promotion Committee should be held to consider Supervisors in the Adult Education Branch for promotion w.e.f. 01.2.1985, the date from which certain Supervisors of Social Education Branch had been promoted. Following a Contempt Petition No.95 of 1989 decided on 23.4.1990, the respondents issued an order of promotion of the applicant as a Project Officer w.e.f. 01.02.1985 but restricted the payment of arrears from 19.10.1988 i.e. the date of Judgment in the aforesaid OA. The Contempt Petition was dismissed on that basis.

2. The respondents however, abolished the post of Project Officer on 24.11.1989 which lead to two Original Application No.1822/90 and O.A.No.2134/90. Applicant claims that of OA No.2134/90 was admitted and the respondents were restrained from reverting the applicant. The applicant states that the Interim Order was continued from time to time until the OA was disposed of on 06.3.1992. Thereafter, the applicant reported for duty in his parent cadre on 12.3.1992. The applicant claims in the present OA that since he continued to be Project Officer under the protection of the Interim Orders of this Tribunal even though he was not allowed to work as such, the respondents should release the pay and allowances of the Project Officer to him from 26.10.1990 to 11.3.1992 with 18% interest. He is further aggrieved that the Respondent No.3 and two others since retired, who came from the Social Education Branch were

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continued as Project Officer even after the abolishing of the posts and were latter adjusted as Assistant Social Education Officer for which they were not qualified. Hence, the applicant also seeks the reversion of Respondent No.3 to his original cadre of original Branch w.e.f. 24.11.1989 the date on which the post of Project Officer was abolished.

3. The respondents 1 and 2 have filed a short reply opposing the maintainability of the OA. They submit that the applicant has suppressed material facts in his application. The respondents claim that both the reliefs sought for by the applicant namely payment of arrears for the period that the interim order was operating in OA No.2134/90 as well as reversion of the Respondent No.3 had already been agitated by the applicant in earlier OAs and CPs and the same had been rejected. The applicant is therefore, now barred from taking up the same cause in this OA. Further more, Respondent No.3 was promoted as far back as on 1.2.1985 and the relief sought for in that respect is also time barred.

4. We have heard the learned counsel on both sides and have gone through the records. We find that in OA No.53/86, the applicant had challenged the Recruitment Rules as also the promotion of answering respondent No.3. In its order dated 19.10.1988, the Tribunal had held that the Recruitment Rules were discriminatory inasmuch as the Supervisors of Adult Education Branch had been kept out. However, no orders were passed on the challenge to the appointment of Respondent No.3. The relief accorded was that the applicant be also considered for promotion from the same date. An Original Application No.1902/90 was filed under the title of R.K.Saini and Others Vs. Delhi Administration. R.K.Saini was also a party in OA No.53/86. In this OA the promotion of answering respondent No.3

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and two others was challenged, but this OA was dismissed on 22.4.1992. The applicant had also filed an OA No.1822/90 against the abolition of the post of Project Officer which was also dismissed on 26.10.1990. The applicant filed a Civil Contempt Petition No.145/92 in OA No.1822/90 challenging the retention of respondent No.3 as Assistant Social Education Officer but the same was dismissed on 03.09.1992. Shri B.B.Raval, learned counsel for applicant argued that OA No.1902/90 was filed by another person Shri R.K.Saini and the present applicant was not a party to that OA. For this reason, he is not bound by the decision in that OA, dated 22.4.1992. We are unable to agree with this contention. The applicant seeks to quash the appointment of Respondent No.3 from the date (24.11.1989) of abolition of the post of Project Director on the ground of Respondent No.3 and Others not having the necessary qualifications. While he does not himself come to the Tribunal, another party similarly placed as the applicant files an OA for the same relief which is refused. The applicant then comes himself with this OA in 1995. Just because there were repeated representations and the last representation was rejected on 14.2.1995 (Annexure - A) no fresh cause of action, therefore, arises. Other parties more vigilant than the applicant took up the matter and approached the Tribunal but did not succeed. The same is sought to be agitated again three years later by the applicant. We find that even if the matter is not hit by res-judicata, it suffers from latches and therefore is clearly time barred. The second relief, as regards the Respondent No.3 is therefore, barred by limitation.

5. We now come to the question of arrears of pay claimed by the applicant as Project Officer on the strength of the Interim Orders of this Tribunal in OA No.2134/90. In so far as OA No.2134/90 is concerned, Annexure A3 shows that on 13.11.1990,

the respondents were restrained from reverting the applicant from the post which he was actually holding that day. On 23.11.1990, the Tribunal observed as per A4 that consequent to the order passed in OA No.1822/90 the applicant had been relieved from the post of Supervisor but this was contested by the applicant.

6. We have gone through the copy of the order dated 6.3.1992 in OA No.2134/90 but we are unable to understand from that as to what final directions were given in regard to the payment of salary of the applicant. In any case, the relief sought for was not granted. We also understand that the matter was agitated in CCP No.168/92 in OA No.2134/90 but the petition was dismissed. Any how if the respondents had not complied with the interim directions in that OA then the proper course for the applicant would have been to file a Contempt Petition rather than seek his remedy by filing a fresh OA after the lapse of three years, for compliance of Interim Orders in the earlier OA. At best this can be regarded as an attempt to circumvent the limitation under Section 20 of the Contempt of Courts Act, 1971.

7. We are unable to come to any other conclusion but that in the facts and circumstances of the case and the past history of litigation, much has been hidden by the applicant in his OA. This OA is a ~~veracious~~ effort to raise a dead cause and thus merits no consideration. On the contrary we strongly feel that such effort, at misusing the judicial process of this Tribunal should be visited with punitive cost.

8. The application is dismissed. We consider that it is a fit case to impose cost on the applicant. However, keeping in view, that the applicant is a retired person, Rs.1000/- as cost

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is imposed. The same will be paid to the Secretary, Legal Aid and Advisory Board, Patiala House, New Delhi through the Registrar, CAT, Principal Bench, New Delhi.

M.A.No.1128/96 and MA No.1444/96:

9. Miscellaneous Applicants in these MAs seek direction for production of certain records and personal file pertaining to the appointment of Respondent No.3. In view of our view finding above, in respect of the reliefs sought for by the applicant in regard to the Respondent No.3, both these MAs are dismissed.

Rao  
(R.K.AHOOJA)  
MEMBER(A)

Haridasan  
(A.V.HARIDASAN)  
VICE-CHAIRMAN(J)

/rao/