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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1046/2000

New Delhi this the 1st day of November, 2000

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR. V.K. MAJOTRA, MEMBER(A)

Dr. B. Lal

Permanent Address:

C/o A.K. Singhal
311, Chanakapuri
Sadar Chowk
Meerut Cantt (U.P.)

Present Address:

C/o Shri M.C. Aggarwal
1383, Lodhi Road Complex
New Delhi-110003.

-Applicant

(None present)

Versus

1. Union of India
Through Secretary
Ministry of Human Resources Development
New Delhi.
2. The Commissioner
Kendriya Vidyalaya Sangathan
(Vigilance Section)
12, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110 016
3. The Assistant Commissioner
K.V.S.
Regional Office
Dehradun (U.P.)
4. Principal
K.V.S.L.
Meerut Cantt.
Meerut (U.P.)

-Respondents

(By Advocate: Shri S. Rajappa)

ORDER (Oral)

Smt. Lakshmi Swaminathan, Member (J)

In paragraph-1 of the OA, the applicant has impugned the penalty order dated 23.12.1998 passed by the Commissioner, Kendriya Vidyalaya Sangathan terminating his services as a Post Graduate Teacher (PGT) with the Sangathan (Annexure A-1) and the order dated 4.4.2000

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passed by Respondent No.2 rejecting his appeal as time barred (Annexure A-2). However, in the relief clause in paragraph-8 (1) he has only asked for quashing of the order dated 23.12.98.

2. As the case was listed today at the request made on 16.10.2000 by learned proxy counsel for applicant, he should have been present, if he had wanted to be heard. As none has appeared for the applicant even on the second call, we have carefully perused the documents on record and heard Shri S. Rajappa, learned counsel for the respondents.

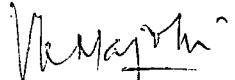
3. We note from the documents on record filed by the applicant himself that he had filed an earlier OA-232/99 which was disposed of by Tribunal's order dated 8.11.99 (Annexure A-11) in which one of us {Smt. Lakshmi Swaminathan, Member (J)} was also a Member. In that case, the applicant through Advocates Shri Talwant Singh alongwith Shri S.N. Pandey, (latter being the counsel in the present OA), have also impugned the order dated 23.12.98 and sought restoration of applicant's services. It is the same order which has been impugned by the applicant in the present case. However, he has made contrary submissions in paragraph-4 (Q) of the present OA by referring to the Tribunal's order dated 8.11.99 in OA-232/99 stating that the OA was dismissed for the reason that the impugned order of dismissal is an appealable order and the applicant had not availed of the statutory remedy available to him. Even though the applicant has referred to the previous applications filed by him in paragraph-4 (Q), his assertion in paragraph-7 cannot be accepted as correct. This is certainly contrary to the fact that he has filed the earlier application (OA-232/99)

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which has already been disposed of by Tribunal's order dated 8.11.99. In paragraph-7 of this order the Tribunal had noted that "[A]s the impugned order was passed on 23.12.98, *prima-facie* any appeal against the same would also be hit by limitation". In any case this application is barred by the principles of *res-judicata* as another application on the same grounds impugning the same order dated 23.12.98 has already been filed by the applicant in OA-232/99. This has already been dismissed by the Tribunal. Therefore, he cannot agitate the matter again by filing the present OA on the same grounds.

4. Although in paragraph-8 of the O.A., the applicant has not prayed for quashing the Appellate Authority's order dated 4.4.2000, the reason for dismissing the same as being time barred cannot also be assailed, particularly having regard to the observation of the Tribunal in OA-232/99, referred to above. It is also relevant to note that the applicant has not prayed to the competent authority for condonation of delay in filing the appeal.

5. Taking into account the relevant facts and provisions of law we find no merit in this application, apart from the fact that it is also liable to be dismissed on the ground of being barred by *res-judicata*. OA is accordingly dismissed. No order as to costs.


(V.K. MAJOTRA)

MEMBER (A)


(SMT. LAKSHMI SWAMINATHAN)

MEMBER (J)

cc.