

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2364/2000

(Q)

New Delhi, this the 19th day of April, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Smt. Anjana
W/o Shri Vishal Narula
R/o B-1/62, Paschim Vihar
Delhi - 110063.

...Applicant.

(By Advocate Shri M.L.Ohri)

V E R S U S

The Lt. Governor of
NCT of Delhi : Through

The Chief Secretary
Govt. of NCT of Delhi
5, Sham Nath Marg,
Delhi - 110054

2. The Director
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi.

...Respondents.

(By Advocate Shri Mohit Madan, proxy counsel for Hon. A. Ahlawat,
Advocate)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

In this application, the applicant has challenged the action of the respondents in not appointing her as a Trained Graduate Teacher (TGT) (Maths) in pursuance of the advertisement given by them in 1997.

2. The applicant has relied on the offer of appointment issued by the respondents in respect of one Ms. Pratibha, TGT (English) vide order dated 6-9-2000. One of the contentions raised by Shri M.L.Ohri, learned counsel is that while Ms. Pratibha got only 53 marks, the applicant had got 59 marks, to which the respondents have stated that this is a matter of record. The applicant has stated that she

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fulfills the conditions for appointment as TGT (Maths) (English) in terms of the advertisement issued by the respondents in 1997. According to her, the only ground on which her candidature has been rejected is that she has not been registered with the Delhi Employment Exchange on the cut off date i.e. 31-12-96, as prescribed in the advertisement. Learned counsel for the applicant has submitted that this condition is illegal in the light of the judgement of the Hon'ble Supreme Court in the case of Excise Superintendent, Malkapatnam, Krishna Distt. A.P. Vs. K.B.N. Visweshwara Rao and Ors. [1996 SCC (L&S) 1420, (3 Judges Bench)]. He has submitted that unfortunately this judgement has not been brought to the attention of the Hon'ble Supreme Court while passing its order dated 28-7-2000 in the case of Govt. of NCTD & Anr. Vs. Nitika Garg & Anr. Initially Ms. Nitika Garg had filed an application in the Tribunal (OA 498/97) which was disposed of vide Tribunal's order dated 3-7-97. Against this order, the respondents/Govt. of NCT of Delhi filed a Writ Petition in the Hon'ble Delhi High Court against which a further SLP was filed in the Hon'ble Supreme Court, which was decided on 28-7-2000.

3. The respondents have taken a preliminary objection that this case is hopelessly barred by limitation. This has been disputed by Shri M.L.Ohri, learned counsel. He has submitted that the applicant soon after the selection made her first representation on 3-2-1998. He relies on the letters issued by the Public Grievance Commission dated 30-10-98 followed by a meeting held by them on 20-5-99. As mentioned

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above, he also relies on the Supreme Court's order dated 28-7-2000, which he states has not taken note of the earlier judgement of the Apex Court in Malakapatnam's case (supra). On the other hand, Shri Mohit Madan, learned proxy counsel for the respondents has submitted that the recruitment process was in the year 1997, appointments for that year have already closed and work regarding further recruitments of teachers of all the categories have already been undertaken by the Delhi Subordinate Services Selection Board (DSSSB) from 1998. Respondents have also submitted that all the remaining vacancies in the recruitment year 1997 have been notified by the Staff Selection Board. Learned proxy counsel for the respondents has explained that with regard to the appointment order issued by them in respect of Ms. Pratibha, TGT (English), this has been done in pursuance of the Hon'ble Supreme Court's order dated 28-7-2000 and this applicant had been agitating her rights since 1997 itself and had an order in her favour within limitation. He has submitted that this is not the position in the case of the applicant. She has filed the present application on 9-11-2000, agitating her rights flowing from the advertisement and selections held for TGTs in the year 1997. Learned proxy counsel has relied on the judgement of Hon'ble Supreme Court in State of Karnataka Vs. S.M.Kotrayya (1996 SSC (L&S) 1488), and S.S.Rathore Vs. State of Madhya Pradesh (AIR 1990 SC P.10). Shri M.L.Ohri, learned counsel has relied on the judgement of the Hon'ble Supreme Court in Madras Port Trust Vs. Hymanshu International etc. (1979 (4) SCC 176). Learned proxy counsel for the respondents has

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submitted that this case would not apply to the present case, as the observations of the Supreme Court in that case were confined to the peculiar facts of that case. Shri Mohit Madan, learned proxy counsel has also submitted that in the present case the applicant having made the representation as far back as 3-2-98, followed by repeated representations is clearly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. He relies on the Tribunal's order dated 20-4-2000 in Arun Kumar Vs. Govt. of NCTD & Anr. (OA 1943/99) where the applicant was also a candidate for selection to the post of TGT in pursuance of the advertisement issued by them in 1997. That OA was filed in 1999 and has been dismissed as barred by limitation. Learned counsel for the respondents has, therefore, submitted that the present OA should also be dismissed. We have also heard Shri M.L.Ohri, learned counsel in reply.

4. We have perused the pleadings on record and considered the submissions made by the learned counsel for the parties.

5. It is evident from a perusal of the applicant's representation dated 3-2-98 that she was well aware of the decision, whether rightly or wrongly, taken by the respondents rejecting her candidature for selection to the post of TGT (Maths) in pursuance of the recruitment held in the year 1997. It is well settled law that repeated representations cannot have the effect of extending the cause of action/ period of limitation. We are also not impressed by the submissions made by the learned

counsel for the applicant that the applicant had made a complaint to the Public Grievance Commission, Govt. of NCTD who had taken up the case and also held a meeting. This is not a sufficient ground for the applicant to file this application more than four years after the cause of action has arisen. The Judgements of Hon'ble Supreme Court in S.S.Rathore, S.M.Kotraya's cases (supra) and Rattan Chandra Sammanta & Ors. Vs. Union of India & Ors. (JT 1993 (3) SC 418) are fully applicable to the facts of the present case. We find force in the submissions made by the learned proxy counsel for the respondents that the reasoning of the Tribunal in its judgement in Arun Kumar's case (supra), dealing with the selections for TGTs held in 1997 is fully applicable to the facts of this case. It is also relevant to note that the respondents have stated that recruitments for the year 1997 have already been closed and the work regarding further recruitment of Teachers for all categories have been entrusted to the DSSSB from 1998 onwards. Another relevant factor to note is the reliance placed by the applicant on the offer of appointment given to Ms. Pratibha who has been offered the appointment as TGT (English). This will also not assist the applicant who has stated in her representation that she is a candidate for TGT (Maths). Besides this, Ms. Pratibha had been pursuing her legal rights in the appropriate judicial fora well in time from 1997, which is not the case of the applicant in the present case.

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5. Hon'ble Supreme Court in its order dated 28-7-2000 in Govt. of NCTD and Anr Vs. Nitika Garg and Anr (supra) has held as follows :

We have, therefore, no hesitation to hold that the observations made by the Tribunal in this order dated 3-7-97, while dismissing the original application filled by the respondent, are of no consequence and would not confer any right. But notwithstanding the same, the relief, which the Tribunal purports to give to the respondent by such observations, may not be taken away. In other words, the respondent's case may be considered, though the observations made by the Tribunal will not have any binding effect on any other party. We are passing this order in the peculiar facts and circumstances of the case. (emphasis added).

It is evident from the aforesaid order of the Hon'ble Apex Court that they have made the above observations with regard to the peculiar facts and circumstances of the case, in which they have clearly stated that "the respondents'case may be considered though the observations made by the Tribunal will not have any binding effect on any other party." Therefore, that case will not assist the applicant to get over the bar of limitation.

6. In the above facts and circumstances of the case, we do not consider that any sufficient ground has been made out by the applicant to exercise our discretion to condone the delay, as provided under Section 21 (3) of the Administrative Tribunals Act, 1985. We do not also find any force in the submissions made by Shri M.L.Ohri, learned counsel that there was no need even to file a Miscellaneous Application for condonation of delay in the present case, merely based on the aforesaid documents relied upon by him. The Judgement of the Apex Court in P.K.

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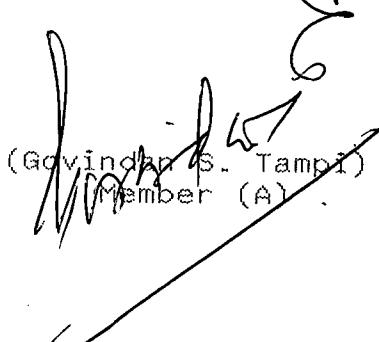
Ramchandran Vs. State of Kerala (1997 (7) SCC 556)

refers. The application is, therefore, barred under Section 21 of the Administrative Tribunals Act, 1985.

7. We also respectfully agree with the reasoning and judgements of the Co-Ordinate Bench of the Tribunal in Arun Kumar's case (supra), relied upon by the respondents. It is also relevant to note that while the appointment order of Ms. Pratibha is to the post of TGT (English), the applicant has applied for appointment as TGT (Maths). It is also pertinent to mention here that in the OA the applicant has not mentioned her subject of specialisation, leaving it open as TGT only.

8. In the result for the reasons given above, the OA fails and is dismissed.

No order as to costs.


(Govindaraj S. Tampli)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)


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