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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1709 of 1988

New Delhi this the 25th day of November, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. P.T. Thiruvengadam, Member

Mrs. A.W. Kalra
R/o 56 Gem Avenue,
BridgePort, C.T. 06606,
U.S.A.Applicant

By Advocate Shri R.P. Oberoi

Versus

1. Delhi Administration through Chief Secretary, 5, Sham Nath Marg, Delhi.
2. Director of Education, Delhi Administration, Old Secretariat, Delhi.
3. Deputy Director of Education, District West, New Moti Nagar, New Delhi.Respondents

None for the respondents

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

On 31.08.1987, the Director of Education, Delhi, passed an order removing the applicant from service. The said order is being impugned in the present application.

2. In paragraph 6.17 of the O.A., the averments are these. In the absence of necessary advice from the disciplinary authorities regarding the appeal against the impugned order and non-availability of relevant rules locally and non-familiarity of the applicant with the procedural requirements, the applicant could not file an appeal within the statutory time limit. She, however, filed an appeal on 15.06.1988 which

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was addressed to respondent No.1 with a request that the delay in filing the appeal may be condoned and the appeal ^{be} decided on merits. No reply has been received till date from the said respondent. It may be noted that the O.A. was presented in this Tribunal on 06.09.1988. It is thus apparent that the O.A. was presented even before the expiry of the period of six months from the date of appeal filed by the applicant.

3. The order-sheet dated 4.5.1989 discloses that the counsel for the respondents had brought to the notice of the Deputy Registrar the fact that the relevant files were with the appellate authority which was in seizin of the appeal of the applicant. He, therefore, prayed for sometime to file a counter-affidavit. He also mentioned the fact that it was not possible for him to state the definite time within which the appeal will be disposed of. Learned counsel for the applicant took the stand that in view of the fact that the O.A. has been admitted by this Tribunal, the appeal of the applicant stood abated on account of the operation of Section 19 of the Administrative Tribunals Act, 1985.

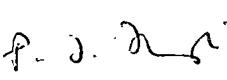
4. In the counter-affidavit, it is stated that the appeal is barred by time. However, in reply to paragraph 6.17 of the O.A., the respondents have asserted that the contents therein are wrong and denied. We take it that in view of the stand taken by the applicant on 4.5.1989, the appellate authority could not decide the appeal and, therefore, the same is still pending.

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5. We have already indicated that the O.A. had been presented within a period of 3 months from the date of presentation of the appeal. Therefore, it had been presented prematurely. In these circumstances, it cannot be said that the appeal of the applicant has abated. The controversy in the O.A. is rather factual and it will be appropriate that the appellate authority goes into the question and gives an authoritative finding. The appellate authority shall, therefore, dispose of the appeal in accordance with law.

6. We direct the appellate authority (the Chief Secretary, Delhi Administration) to dispose of the appeal preferred by the applicant on 15.06.1988 in accordance with law, as expeditiously as possible, but not beyond a period of 4 months from the date of presentation of a certified copy of this order by the applicant before him. It goes without saying that if the applicant feels aggrieved by the appellate order, it will be open to him to challenge the same by taking appropriate proceedings before an appropriate forum.

7. With these directions, this O.A. is disposed of finally.


(P.T. THIRUVENGADAM)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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