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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. O.A. 563/87.

DATE OF DECISION: 9.9.1992

R.G. Malik.

.... Petitioner.

Versus

Director of Education
and another.

.... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

.... None.

For the Respondents.

.... Ms Avnish Ahlawat,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

None appears for the petitioner. Ms Avnish Ahlawat, Counsel, is present on behalf of the respondents. We have perused the petition and heard the counsel for the respondents. The petitioner was a Headmaster (Middle School) in the Primary School belonging to the Delhi Municipal Corporation. The school was then transferred to the Delhi Administration. It was again retransferred in the year 1958 to the Delhi Municipal Corporation. At that time an option was given to the Headmaster like the petitioner to remain in service of the Delhi Administration subject to protection of their pay as Trained Graduate Teacher, there being no post of Headmaster(Middle School) in the Delhi Administration. The petitioner opted to remain on protection of his pay as Trained Graduate Teacher in the Delhi Administration. It was pointed out to us by the learned counsel

for the respondents that subsequently sometime in the year 1970, the school was retransferred to the Delhi Administration. This brought about a situation where some of the colleagues of the petitioner who did not remain with the Delhi Administration when the school was transferred to the Delhi Municipal Corporation came back with better positions to the Delhi Administration in the year 1970. It is this that gave rise to the grievance which is subject matter of this petition. The prayer of the petitioner is that he should be restored as Headmaster w.e.f. 4.11.1957 and on that basis accorded further promotion as Vice Principal in about the year 1977 and then as Principal in about the year 1981 and for consequential benefits. Virtually, the petitioner is claiming relief by ignoring the events that have taken place, namely, the petitioner exercising an option in the year 1958 to remain with the Delhi Administration as a Trained Graduate Teacher subject to his pay being protected. Once the petitioner exercised that option voluntarily and chose to remain as Trained Graduate Teacher with the Delhi Administration subject to his pay being protected, he cannot thereafter claim any right or privileges which he had earlier acquired as Headmaster (Middle School). That some of his colleagues have stolen ^{over} a march ~~the~~ the petitioner is attributable to fortuitous circumstances. The petitioner has no legal right to efface the effect of the option which he had exercised to remain with the Delhi Administration in the year 1958 as a Trained Graduate Teacher. Hence, he has to work out his rights


on the basis that he continued as a Trained Graduate Teacher with the Delhi Administration from the year 1958 onwards.

He cannot, on the basis of the previous post which he earlier held as Headmaster (Middle School), now claim higher positions as Vice Principal and Principal.

2. The learned counsel for the respondents is also right in pointing out that the cause of action on the petitioner's own showing have arisen in the year 1957-58, 1970 and lastly in the year 1981, the petition filed in the year 1987 is clearly barred by time by Section 21(2) of the Administrative Tribunals Act, 1985. Hence, the petition is liable to be dismissed on this short ground as well.

3. For the reasons stated above, this petition fails and is dismissed. No costs.

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(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN