

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

D.A. No. 1670/91

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New Delhi this the 5th day of September 1995

Hon'ble Shri N.V.Krishnan, Vice-Chairman(A)

Hon'ble Smt Lakshmi Swaminathan, Member(J)

Smt. Madhu Malhotra,  
Wife of Sh. M.N. Malhotra,  
R/O 218, Milap Nagar,  
Uttam Nagar,  
New Delhi

(By Advocate: None)

...Applicant

Versus

4. Lieut Governor,  
Delhi Administration,  
Through: Secretary(Education)  
Old Secretariate  
Delhi- 110 054

2. Director of Education,  
Delhi Administration,  
Old Secretariate,  
Delhi-110 054

3. Director of Education,  
Himachal Pradesh,  
SHIMLA- 171 001

...Respondents

(By Advocate: None)

ORDER (Oral)

Hon'ble Shri N.V.Krishnan, Vice-Chairman(A)

The applicant a Teacher in the Delhi Administration has filed this OA seeking the following reliefs:-

- i) That the Respondents may be directed to count her past service under the H.P.Govt. w.e.f. 30-4-66 for the purpose of pension, gratuity, leave and other allied considerations/ benefits.
- ii) That in case any procedural requirements are to be fulfilled the Respondent No.2 may be directed to take up and settle the matter direct with the respondent No-3 on official level.

iii) That the pay of the applicant may be refixed at stage as admissible to her under F.R. 22 on her joining the post under the Delhi Admn. w.e.f. 22.3.83.

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Thus the claim is that the service rendered by the applicant under the Government of Himachal Pradesh w.e.f. 30-4-66 should be considered by the Respondents Delhi Administration for fixation of initial pay and for granting of pension on retirement. It is seen that her case was taken up finally by Smt Raj Bala Gautam Member of SC/ST Welfare Board. In reply to her the second respondent, Director of Education, Delhi Administration, has sent the impugned letter dated 18-3-91 which reads as follows:-

"Dear Smt Gautam,

Kindly refer to your D.O. No. SC/ST.WB/M-11A/S (E)/ADM/90 dated 13th February, 1991 to Shri Ganga Dass, Secretary Education, Delhi Admn. Delhi regarding grant of past service benefits to Smt. Madhuri Malhotra.

Smt. Madhuri Malhotra was intimated the terms and conditions vide this office letter dated 13.5.86 that the Delhi Admn., Delhi or the Directorate of Education will bear no financial liability which may accrue as a result of the past service before joining this Directorate. Before the decision of permanent absorption was taken, she had given her acceptance for the terms and conditions for permanent absorption vide her letter 10.11.1986 and accordingly she had been permanently absorbed in this Directorate vide this office order dated 22.2.86."

2. It is clear from this letter that the terms and conditions given to the applicant before she was absorbed in the Delhi Administration made it clear that the Delhi Administration or Director of Education would not bear the financial liability in respect of the past service of the applicant. The terms and conditions added are available at Annexure-III of the OA. The condition No. III which is relevant reads as follows:-

"That the Delhi Administration or the Directorate of Education will bear no financial liabilities towards her pension and gratuity or any other benefits which may accrue as a result of the past service before joining this Directorate."

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The applicant was fully aware of all these conditions which were accepted by her and the fact that the conditions were accepted is also admitted by the applicant in the OA. In the circumstance we are enable to find any fault with the respondents for denying her the benefit of that service and conveying the same to Member of SC/ST Welfare Board by the impugned Annexure-I letter.

3. However the applicant has filed MA 4091/94 and sought to place on record certain additional documents to strengthen her case. It is stated that in similar cases past service in parent department has been counted. The instance of Smt. S.K.Parmar has been mentioned. In regard to this precedent, the applicant herself sent a representation to Respondent No-2 which is Annexure A-4 of the MA. It is stated that the benefit denied to the applicant has been given to Smt. S.K.Parmar by the letter dated 6-6-88 which is Annexure A-I of the MA. We have seen that letter. No doubt, she has been taken on duty by the Directorate of Education from 3-1-84 but the condition still is that the Delhi Administration will not bear any liability for pension gratuity or other benefits on account of service rendered in Punjab. This is the same condition which is attached to the applicant's appointment. The Annexure A-I does not establish the point sought to be made by the applicant. Annexure A-II with the MA relates to counting of previous service in the case of one Sh. U.D.Ohja. However, this does not further the applicant's case, because it is not further proved that in the case of Ohja also, the condition imposed was that her previous service would not be counted. Annexure A-3 to the MA is a fixation of pay of Smt Usha Oberoi on deputation. That also does not establish, the applicant's case. Hence, we do not find

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any merit in the applicant's case even after considering the additional documents filed in MA 4091/94.

4. The applicant has also filed the MA 1792/95 seeking the production of certain records relating to persons in whose case it is averred that the past service has been counted. The applicant has not produced any prima-facie evidence to show that the cases referred to in the MA are similar to that the applicant. There is no proof that in their case, a similar condition, like Condition No-III of the order dated 13-5-86 was issued to them. In the circumstance we do not find any merit in this MA also.

5. MA 403/93 filed earlier for an interim direction has also been listed for possible disposal. As we have dismissed of OA itself, that MA has no merit and is dismissed.

6. In the circumstance the OA is dismissed. The MA also stands disposed of.

*Lakshmi Swaminathan*

(Smt Lakshmi Swaminathan)  
Member(J)

*N.V.Krishnan*  
(N.V.Krishnan)  
Vice-Chairman(A)

cc.