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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

RA No.9/96 in  
OA No.1670/91  
MA No.126/96

New Delhi this the 29<sup>th</sup> day of January, 1996.

Hon'ble Sh. N.V. Krishnan, Acting Chairman  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Smt. Madhuri Malhotra  
Wife of Sh. M.N. Malhotra,  
Resident of A/18, Milap Nagar,  
Uttam Nagar,  
New Delhi.

...Applicant

(By Advocate Sh. Animesh Kumar)

Versus

1. Lt. Governor, Delhi  
Admn. through Secretary,  
(Education), Old Secretariat,  
Delhi-110054.
2. Director of Education, Delhi  
Admn. Old Secretariat,  
Delhi-110054.
3. Director of Education,  
Himachal Pradesh,  
Shimla-171001.

...Respondents

ORDER (By circulation)

OA-1670/91 was dismissed by our order dated 5.9.95  
exparte against both the applicant and the respondents,  
as none appeared for either party on the date of final  
hearing. This RA has been filed for a review of that  
order. The applicant has filed MA-126/96 for hearing  
the Review Application to enable the counsel to present  
his case.

2. We have carefully considered the matter. We are  
satisfied that the Review Application can be disposed  
of by circulation and that there is no need to hear  
the counsel in this matter and accordingly MA-126/96  
for hearing the Review Application is dismissed.

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3. The claim of the applicant was that her past service under the Government of Himachal Pradesh w.e.f. 30.4.66 should be counted for the purpose of pension, gratuity, leave and other benefits. It was rejected on the ground that the applicant was specifically informed at the time of appointment that Delhi Administration would not accept any financial liability in this respect and this condition was accepted by the applicant. We have also found that though the applicant sought to make out that in similar cases of Smt. S.K. Parmar, U.D. Ojha and Smt. Usha Oberoi the Delhi Administration had taken a different stand than what they have done in her case, this has not been established by considering the particulars of these three cases. We, therefore, found that such a case has not been established. We also considered MA-79/95 seeking production of records and held that in that MA there was no prima facie evidence to show that the cases referred to in the MA are similar to that of the applicant and more particularly that there was no averment in the MA that in those cases a similar condition like the above one imposed in the case of the applicant, was imposed.

4. In the Review Application grounds have been given as to why the counsel could not appear on the date when the OA was dismissed exparte, which is not quite relevant. For, in these circumstances, we are not required to consider restoration of the OA. As an order has been passed, dismissing the application on merits exparte against the applicant, he can only seek review of that order on merits.

5. In this regard the applicant has contended that we have come to the wrong conclusions in respect of the similar instances cited by the applicant to support her

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case viz. Smt. Parmar and two others. The applicant draws attention to MP-4301/93 (should be MP-430/93) to bring on record certain vital facts. It is stated that it refers to the case of one Vijay Kumari Rathore and that this has not been dealt with by the Bench.

6. We notice that in respect of OA-403/93 it was decided on 20.8.93 that as the relief claimed in the MP No.430/93) is the same as the relief sought in the OA the MP will be disposed of on the basis of the OA itself. Para-10 of the MP refers to some decision taken by the Himachal Pradesh Government. That was not the issue raised in the OA. We were concerned with the decision taken by the Delhi Administration and hence the decision taken by the Himchal Government has no bearing in this regard.

7. The only other ground is regarding the rejection of the MA-1792/93. It is contended that this decision is wrong because the MA should have been allowed and the record referred to therein should have been produced for a proper decision. We have already stated above as to why this MA was dismissed in our order. We do not see any error apparent on the face of that record. We have specifically stated that there was no averment to the effect that in the case mentioned in the MA there was a condition imposed by the Delhi Administration similar to the condition imposed on the applicant in the order 13.5.86 when the applicant was appointed. We, therefore, find that no grounds have been raised to justify a review. The R.A. is accordingly dismissed.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (J)

'Sanju'

*N.V. Krishnan*  
29.1.96

(N.V. Krishnan)  
Acting Chairman