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**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2266 of 2004

New Delhi this the 3rd day of June, 2005.

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.K. Misra, Member(A)**

Mrs. Veena
W/o Shri Sanjiv Kumar,
R/o H.No.AK-25, Shalimar Bagh,
Delhi-110 088.

..... Applicant

(By Advocate : Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary,
Delhi Secretariat,
Players Building, I.P. Estate,
New Delhi-110 001.
2. Director
Directorate of Education,
Old Secretariat,
Delhi.
3. Deputy Director of Education,
District North West (B),
Pitam Pura,
Delhi.

..... Respondents

(By Advocate : Shri Vijay Pandita)

O R D E R

Hon'ble Mr. M.K. Misra, Member (A) :

The applicant – Mrs. Veena, wife of Shri Sanjiv Kumar,
through the present Original Application seeks the following reliefs:-

- “(i) to allow the Original Application;
- (ii) to direct the respondents to produce the records;
- (iii) to quash and set aside the impugned order dated
19.8.2004 (Annexure A-1);

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- (iv) to direct the respondents to issue the appointment letter to the applicant in accordance with the letter No.29210 dated 24.12.1997 (North-West Zone); and also declare that the applicant is entitled for all consequential benefits, like protection of pay, seniority etc.
- (v) to pass such other and further order which this Hon'ble Tribunal may deem fit and proper."

2. Briefly, the facts of the case are that the applicant is presently working as PGT in Kendriya Vidyalaya Sangathan at Himachal Pradesh (Jammu Region). An open advertisement in Daily Newspaper was published by Directorate of Education, Delhi Government in the year 1997 inviting applications for the posts of TGT in various disciplines, including Natural Science and also of Language subjects. The applicant applied for the post of TGT (Natural Science), as she fulfilled all the requisite qualifications for that post and sent her application through proper channel. Her name was also registered with the Employment Exchange prior to 31.12.1996. The applicant was required to appear before the Recruitment Cell on 22.9.1997 for the purpose of verification of the testimonials and she complied with the instructions accordingly. In the year 2002, the applicant got information that few applicants were selected as per merit list prepared by the official respondents. The applicant tried to find out her status in the merit list and she came to know that her name figured at Serial No.4 of the merit list. Her juniors in the merit list were also selected for the relevant posts. On 1.1.2003, she sent a representation requesting to issue appointment letter in her favour on the basis of the merit list. The said representation was rejected on the ground that vide Memo dated 31.12.1997, she was requested to report for duty within 10 days and

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the same was dispatched by entry No.15604 dated 31.12.1997. In that letter, it was clearly mentioned that if she failed to show the documents within stipulated period of 10 days, it would be presumed that she was not interested in the said appointment. Secondly, upon the failure on the part of the applicant to appear within stipulated time, the offer of appointment made to her was deemed to have lapsed automatically.

3. Thereafter she made complaint through representation before the Public Grievances Commission. It was also submitted by the applicant that in the seniority list, she was shown on the strength of Directorate of Education. Thereafter she made again a representation before the Public Grievances Commission and the Commission directed the respondents to furnish the status report in the case of the applicant. The status report was submitted before the Public Grievances Commission by the respondents. Thereafter the matter was decided by the Public Grievances Commission vide letter dated 19.8.2004, as under :

"ORDER

Smt, Veena resident of H.No.AK-25, Shalimar Bagh, Delhi-110088 has represented vide her letter dated 01-01-03 stating that her name appears at Sl.No.4 in the Dte. Of Education letter No.299210 dated 24-12-1997 vide which the names of TGT were nominated to the Districts but she has not received any appointment letter or any other information whatsoever on this subject. Later she has moved the Public Grievances Commission Delhi Govt. about her grievances and had raised certain allegation of misrepresentation etc. against the official of this Deptt. The matter was accordingly considered for in depth inquiry into her allegations. In her last representation dated 11.5.04, now she has requested for sympathetic consideration of her case on the ground of that her daughter has undergone open heart surgery at AIIMS

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and needs continuous treatment. Her present place of posting is at Jammu in Himachal Pradesh, where no advance facilities for treatment of her daughter are available. Besides her husband works in Delhi and has to look after her daughter and old father-in-law.

After carefully going through the representation dated 01-01-03 and subsequent correspondence including her letter dated 11-05-2005, the available records and clarification received from Kendriya Vidyalaya Sangathan, it is observed that :-

1. There is no force in the allegations raised by Smt. Veena that she was never intimated about her selection because the erstwhile District North-West had issued a memo No.F.(Panel)/96-97/DNW/15604 dated 31-12-97 requesting her to report alongwith relevant documents mentioned therein within 10 days and it was dispatched by entry No.15604 dated 31-12-97 as per entries in the dispatch register. Non affixing of postal receipt in the register does not indicate that said letter was not dispatched as claimed by her.

2. It is further observed that in the said memo dated 31-12-97 it was clearly mentioned that if she failed to show the documents within stipulated period which was 10 days it will be presumed that she is not interested for the said appointment. Consequently upon the failure of Smt. Veena to appear within stipulated time the offer made to her is deemed to have lapsed automatically.

3. Further the allegation made by her that some other person has impersonated her and got appointment in her place is also not true. No other person with the name Veena has been appointed in place of the applicant against the nomination for the year 1997.

4. The appearance of her name at Sl. No.4246 in the tentative seniority list of TGT (Female) circulated by the department although she was never issued offer of appointment letter also appear to carry no weight, because as per the prevalent practice, all the names appearing in a panel for a particular year nominating names of selected candidates are placed in the Tentative Seniority List for the particular year to avoid any omission.

5. There is no force in her allegations that some other wait listed candidates may have accommodated by refusing her candidature because 43 dossiers were nominated to the District and all of them were to be issued offer of appointment as per letter dated 24-12-97. As such there was no scope for considering any

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candidate other than the dossiers nominated to the District as appears from the content of such letter.

6. It is an admitted fact by the applicant herself that she has made no communication with other office from the year of her selection i.e. 1997 till 01-01-2003. The reason for delay has not been properly accounted for as to why she has filed her claim so belatedly after a lapse of approximately five years therefore her claim is not justified and cannot be considered at this belated stage in absence of any convincing reason for such inordinate delay in filing her claim.

From the reply received from Kendriya Vidyalaya Sangathan vide letter No.F(17)/2004-KVS(DR)/17389 dated 22-07-2004 as TGT (Bio) and on 29-07-03 she was promoted to the post of PGT (Bio) and has joined there on 31-7-2003. Besides, in her application dated 19-05-2004 she has stated that presently she is posted in Himachal Pradesh.

From the above stated facts it appears that till her transfer to Himachal Pradesh on her promotion as PGT she placed in Delhi and as such has not taken care to enquiry about fate of her examination and selection to the post of TGT in this Govt. After the condition in her previous department has become uncomfortable she has raised her claim after a lapse of approximately five years.

Now therefore, from the above stated facts and circumstances the request for Smt. Veena for consideration to the post of TGT as per select panel for the year 1997 is hopelessly barred by limitation of time for her claim because the panel for the year 1997 has lapsed with the formation of next panel and lapse of offer of appointment. Accordingly, her request a rejected."

4. The main grievance of the applicant is that she did not receive any letter of offer of appointment and the postal authority did not confirm the fact that any letter of appointment was ever issued or dispatched by the respondents (Annexure R/I at Pages 116 to 122). This annexure indicates that against the name of the applicant no remark has been mentioned to show that the letter of appointment was sent by post (Dispatch No.15604).

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5. In the reply, it has been submitted by the respondents that the OA of the applicant is barred by limitation as the cause of action arose in the year 1997 and the OA was filed on 20.9.2004. Therefore, it suffers from latches. The first representation was submitted on 1.1.2003 before the respondents, i.e., after the lapse of six years period. Secondly, it was stated by the respondents that after 1997, many candidates have been appointed as TGT teachers and they have not been impleaded in the OA, therefore, the OA is not maintainable.

6. Learned counsel for the respondents also submitted that inclusion of name in the list of successful candidates does not confer indefeasible rights for appointment. Further it has been submitted that the life of the panel of successful candidates is also limited and it cannot go beyond the certain period. Ordinarily, panel remains alive for one year and can be extended for further period of six months thereafter in normal circumstances.

7. It was also stated by the learned counsel for the respondents that the applicant had deliberately been avoiding representing her case till 1.1.2003 as she was already working as TGT in KVS at Shalimar Bagh near to her residence in Delhi. When she was transferred out of Delhi then she sent the representation with regard to the matter of 1997. Regarding the dispatch of appointment letter to the applicant, it has been averred by the respondents that the dispatch register clearly shows the correct position that the letter of appointment was issued to her in a chronological order. 41 candidates were selected for the posts in North West District. In this

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list of 41 candidates, the name of the applicant also figured. The North West District had issued Memorandum to all the candidates including the applicant as per dispatch register of the concerned district for the relevant period. The name of the applicant has been reflected as 15604 dated 31.12.1997 of the dispatch register (Annexure R I). Memorandum dated 31.12.1997 issued to the applicant clearly mentioned that if she failed to show the documents within the stipulated period of 10 days, it will be presumed that she was not interested for the said appointment. The applicant did not response as per the Memorandum, therefore, she could not be appointment as TGT in the Directorate. The first representation was made by her on 1.1.2003 approximately after elapse of six years. In the meantime, the District of North West has also been bifurcated in North West A and North West B districts. Therefore, it took time to locate the dossiers of the applicant. Later on the Public Grievances Commission also closed the matter of the applicant on the ground that it is barred by limitation. The panel has also lapsed due to preparation of subsequent panels thereafter. Her junior Mrs. Kalapna Kumari at Serial No.5 in the panel got the appointment because she responded to the Memorandum issued by the competent authority.

8. Regarding her name appearing at Serial No.4246 in the tentative seniority list of TGT (Female) circulated by the Directorate of Education, the respondents submitted that it is irrelevant because as per the prevalent practice all the names appearing in the panel for a particular year are mentioned in the tentative seniority list for

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that particular year to avoid any omission, since the office of Directorate are scattered all over Delhi. It was also stated that non-availability or non-fixing the postal receipt in the register does not indicate that the said letter was not dispatched to her. Thus, there is neither discrimination nor violation of Articles 14 and 16 of the Constitution of India.

9. In MA 1904/2004 a prayer for condonation of delay in filing the Original Application has been made by the applicant on the ground that the representation made before the Public Grievances Commission was rejected/ closed vide order dated 19.8.2004 (Annexure A/1), therefore, the cause of action arose only on 19.8.2004 and the OA has been filed thereafter on 20.9.2004.

10. In reply to aforesaid MA, the respondents submitted that OA is belated by six years as the panel was prepared in the year 1997 and the first representation was submitted in the year 2004, i.e., after a lapse of six years. Therefore, OA is barred by limitation and it is hit by latches because the period of six years delay could not be explained convincingly in a rightful manner.

11. The Rejoinder has also been filed by the applicant reiterating the pleas raised in the Original Application.

12. We have heard the learned counsel for the parties and also perused the material available on record.

13. As regards the condonation of delay in MA 1904/2004, we observe that the applicant assails the impugned order dated 19.8.2004 and the Original Application has been filed on 20.9.2004,

therefore, it cannot be concluded that the OA has been filed belatedly rather it has been filed within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985.

14. We further observe that the documents at Annexure R I clearly indicate that the letters were dispatched as per the Dispatch Register for Postal Dak on 31.12.1997. The Dispatch number starts from 15589 in a serialim upto 15653. There is no interpolation in between. The name of the applicant has been shown against Serial No.15604 (F2 (Panel) 97-98, Annexure R/I at page No.116 of the paper book). The address of the applicant has been shown as under:-

“Smt. Veena (TGTNSC)
AK-25, Shalimar Bagh
Delhi-52.”

15. The content relates to appointment to the post of NTGT NSC). There were about 52 persons including the applicant to whom such letters of appointment were dispatched by the Directorate of Education, Delhi Govt.. Therefore, it cannot be presumed by any stretch of imagination that the letter of appointment was not dispatched to the applicant. Further it cannot be presumed by any length of reasoning that for six years, she would not inquire into the status of her appointment with regard to preparation of panel for 97-98. It is worth noticing that she started inquiring about her appointment on the basis of panel prepared on 97-98 only after when she was transferred from Delhi to Himachal Pradesh (Jammu Region). She did not bother to make any inquiry regarding panel for 97-98 so long as she was posted and working in Delhi near to her

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residence. Therefore, it appears that the applicant did not approach the appropriate forum with clear intention. She approached this Tribunal only when the order of her transfer outside Delhi was issued by the competent authority. We also observe that the panel is prepared for a limited period and at the most till the period next panel is prepared. After the preparation of 97-98 panel, many panels have been prepared thereafter and after the lapse of six years, the settled issue would get unsettled thereby increase the litigation, if decided by not impleading the persons affected by this OA, who were empanelled after 97-98.

16. In the light of the above discussion, the Original Application must fail. Hence it is dismissed with no order as to costs.


(M.K. MISRA)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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