

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA NO. 2714/2004

This the 31st day of May, 2005

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)

**Mrs. Prem Lata Ghai,
15, Satilila Apt's Adanbagh
P.O. Dayalbagh, Agra-282005**

-Applicant

(By Advocate: Shri M.C. Dhingra)

Versus

- 1. Commissioner
Kendriya Vidyalaya Sangathan,
Nehru House,
18, Institutional Area,
Shaheed Jeet Singh Nagar,
New Delhi.**
- 2. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Sector 'J' Aliganj,
Lucknow-226020 (UP)**
- 3. Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Opposite Maida Mills,
Bhopal-462011 (MP)**

-Respondents

(By Advocate: Shri S. Rajappa)

ORDER (Oral)

Learned counsel heard.

- 2. Applicant a primary school teacher with Kendriya Vidyalaya Sangathan was posted at Kendriya Vidyalaya, Air Force Station, Agra. She had sought leave for six months on 23.10.1989 and also permission to go to USA. She was granted leave for 90 days and also NOC for going abroad vide Annexure A-3 dated**

23.10.1989. She did not return on duty after expiry of the period of 90 days for which she was granted leave. She returned on 17.10.1994. She was not allowed to join at Agra. However, she was transferred on 18.4.96 to Kendriya Vidhyalaya, Bhind. On 30.4.96, she requested for change in her posting. She made several representations in this behalf for change in the posting, which was not done. Then, on 21.10.2002, she made a representation that in case it was not possible to change her posting, the representation may be treated as a request for voluntary retirement. After making some representations, applicant ultimately filed OA-2938/2003, which was disposed of on 27.5.2004 with the following directions/observations to the respondents:

"7. Having regard to the facts and circumstances of the case as submitted by the learned counsel for the applicant and also as clarified by the learned counsel for the parties, I dispose of this OA with a direction to the respondents to consider the representation of the applicant filed on 21.10.2002 which has been pending with them and also this OA, treating it as an additional representation of the applicant, and given due consideration to the prayers as have been made therein supported with facts as mentioned therein and to dispose them of by issuing a reasoned and speaking order within two months from the date of receipt of a copy of this order, keeping in view the rules and instructions on the subject. Respondents may also given personal hearing to the applicant before the matter is disposed of by them if the applicant so desires. With this, the OA stands disposed of. No order as to costs".

3. Respondents have passed the orders on applicant's representation vide Memorandum dated 1.9.2004 rejecting applicant's request for voluntary retirement.

4. Learned counsel of applicant has now produced a letter of the respondents dated 3.5.2005 to the effect that applicant has been directed to report to Principal, KV Bhind by 7.5.2005, failing which it will be presumed that she is not interested to serve the KVS as PRI and the action as per rules will be initiated against her. Learned counsel stated that applicant has now joined at Bhind.

5. In the present application, applicant has sought the following reliefs:-

"direct the respondents to grant Voluntary Retirement to the applicant and pay all the retrial benefits to her with interest @ 18% per annum.

Alternatively if the above relief of voluntary retirement as prayed in Para 8.1 above cannot be granted then:

Direct the respondents to give posting to the applicant and also to pay/gave all consequential benefits including arrears of pay w.e.f. 17.10.1994 when the applicant submitted her "fitness certificate" with request to give her posting to resumption and discharging duties".

6. Learned counsel of respondents stated that the applicant could not be granted voluntary retirement under the pension rules as she had not completed a qualifying period of service of 20 years. He stated that now that the applicant had joined at Bhind pursuant to their orders dated 3.5.2005, respondents, within a reasonable period, would consider payment of consequential benefits including arrears of pay w.e.f. 17.10.94.

7. I have considered the rival contentions as also the material available on record.

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8. I find that impugned Memorandum dated 1.9.2004 is quite a detailed and speaking order. Applicant has not even completed 20 years of service. The alternative request of the applicant regarding the posting has already been met - lb

As a matter of fact, when her request for change in the posting was not considered for a long time, she ought to have joined at Bhind without wasting any time. Now, respondents have again told her to join at Bhind and she has joined at Bhind. The alternative relief claimed has also been met. Respondents are prepared to consider whether any consequential benefits are due to the applicant within a reasonable period.

9. Respondents are directed to consider and pass detailed and speaking orders about the consequential benefits including arrears of pay w.e.f. 17.10.94, if any within a period of three months as per law from the date of receipt of communication of these orders.

10. OA is disposed of accordingly.

Vk Majotra
(V.K. Majotra)
Vice Chairman (A)

31.5.05

cc.