

30

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

RA No.250/2004  
IN  
OA No.402/2004

IN MA 990/2004

NEW DELHI THIS 11<sup>th</sup>.....DAY OF MARCH 2005

HON'BLE SHRI S.A. SINGH, MEMBER (A)

Mrs. Vinod Malhotra,  
W/o Shri N K Malhotra,  
Aged about 50 ½ years,  
Resident of: House No.861, Sector 37, Faridabad.

Employed as: Trained Graduate Teacher in the Kendriya Vidyalaya, NTPC, Badarpur,  
New Delhi)

.....APPLICANT

(By Advocate: Shri B B Raval)

VERSUS

1. Union of India through : The Secretary,  
Ministry of Human Resource Development,  
Department of Education,  
Government of India, Shastri Bhawan,  
New Delhi -110011
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg, New Delhi - 110016.

.....Respondents

(By Advocate: Shri S. Rajappa )

**ORDER (ORAL)**

This Review application has been filed by the applicant contending that there is an error apparent on the face of the record because on the date of the hearing of the MA No. 1990/2004, the counsel for the applicant Shri B B Raval nor the applicant could ~~not~~<sup>be</sup> be present. However, husband of the applicant was present who requested the Hon'ble Court to either adjourn the case to the afternoon or to keep it on board for next working day. The Tribunal has however, mentioned that none was present for the applicant, which is an error apparent on the face of the record.

2. The second contention of the applicant is that he has sought to impugn the constitutionality /vires of constituting the private medical board at Government cost,

*dh*

31

-2-

which is require to be heard by a Division Bench for the reasons that single bench was not competent to hear petition concerning constitutionality.

3. Besides the above, the other pleas of the applicant were concerning some uncharitable <sup>remarks</sup> of the respondents pertaining to counsel of the applicant and lack of a reply relating to new transfer policy of the Kendriya Vidyalaya Sangthan published in the newspapers.

4. The counsel for the respondents pleaded that there was no merit in the application of the applicant as there was no error apparent on the face of the record. If the constitutionality /vires of the constitution of the medical board has to be challenged it can be challenged in a separate OA and not in a RA. The Husband of the applicant has no locus standi in the matter and as per clause 23 of the Tribunal Act 1985 , the right to appear is only that of applicant or his legal practioner. Through this RA the applicant is trying to re-argue the case, which is not permitted.

5. After hearing the counsel for the parties and going through the information placed on record I find that the main argument of the applicant in this RA is that there is an error apparent on the face of record because the husband of the applicant was present on 13.8.2004 whereas it has been recorded in the order sheet that there was none for the applicant and that when the constitutionality and vires of the medical board is challenged the Single Bench cannot hear the case.

6. Clause 23 of the Tribunal Act 1985 is clear that a person making an application to the Tribunal under this Act should either appear in person or take assistance of a legal practitioner of his choice. The husband of the applicant was not a legal practioner of the applicant, thus, cannot represent the applicant. In view of this it has been correctly recorded in the order sheet that there was none for the applicant.

6. The question of challenging the constitutionality of the medical board has already been considered by the Tribunal, as is apparent from the order dated 13.8.2004 passed in MA 1990/2004 the OA No. 402/2004.

7. Review is only permissible on the discovery of important matters or evidence, which , after the exercise of due diligence was not within the knowledge or could not be produced by the applicant at the time when the orders were made or on account of some mistakes or error apparent on the face of the record or for any other sufficient reason.


4

- 3 -

22

The applicant has failed to show that there was any error apparent on the face of the record nor any new documents or any other sufficient cause for reviewing the order. Through this RA the applicant has tried to re-argue the case, which is not permitted.

8. In view of the foregoing the RA is without merit and is dismissed. No costs.

  
(S.A. Singh)  
Member (A)

Patwal /