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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Allahabad this the 25th day of January 2001.

Original Application no. 1024 of 2000.

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. Rafiq Uddin, Judicial Member

Dinesh Chandra,
S/o Shri Ram Sakal,
R/o Village and Post Office Malhani,
Distt. Jaunpur.

... Applicant

C/A Shri P.N. Tripathi

Versus

1. Union of India, through Director of Education and Human Resources Development, Govt. of India, New Delhi.
2. Deputy Director, Navodaya Vidyalaya, Samiti, Regional Office, B-159 Nirala Nagar, Lucknow.
3. Principal, Jawahar Navodaya Vidyalaya, Jahangirabad, Distt. Barabanki.

... Respondents

C/Rs ...

O R D E R(Oral)

Hon'ble Mr. S. Dayal, Administrative Member

The case of the applicant is that he worked for a certain period in Navodaya Vidyalaya, Meja,

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Distt. Allahabad and, thereafter, worked for certain other period in Navodaya Vidyalaya, Gauri Ganj, Distt. Sultanpur and lastly he worked in Navodaya Vidyalaya Jahangirabad, Distt. Barabanki. The period of work in Barabanki mentioned are 03.09.96 to 20.12.96, 01.01.97 to 30.04.97 and 02.07.97 to 20.10.97.

2. The applicant appears to have ~~been~~ worked at all these places on part time basis on consolidated salary. The applicant claims to have again worked in Navodaya Vidyalaya from 24.10.94 for a period of 179 days on consolidated salary, but was disengaged w.e.f. 13.11.97 and has not been allowed to work, although he claimed that no permanent teacher had come to join. A Civil Misc Writ Petition No. 38730 of 1997 filed by him was disposed of by order dated 21.11.97 with the direction that the respondents may permit the petitioner to work on the post of PGT(Physics) teacher provided there is enough work for engagement of the petitioner and the past conduct of the petitioner has been satisfactory. The applicant was not allowed to work and an order was passed by Deputy Director of Navodaya Vidyalaya Samiti (respondent no. 2) informing the applicant that there was no post of PGT (Physics) vacant at Jawahar Navodaya Vidyalaya, Barabanki and there is no sufficient work load related to Physics subject in this Vaidyalaya. ^{Thereafter} ~~Therefore~~, he represented on 03.12.97 for allowing him to work in the light of the order of High Court in Civil Misc Writ Petition no. 38730 of 1997. The applicant filed the contempt petition no. 44 of 1998, which was dismissed stating that there was no vacancy and, therefore, the applicant

was not permitted to work. The applicant was allowed to file a fresh writ petition. The OA results from the said order.

3. Learned counsel for the applicant claimed that the applicant was transferred from Meja to Gauri Ganj and from Gauri Ganj to Barabanki and he worked continuously for a period of more than 3 years.

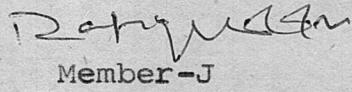
4. We find that the period of work of the applicant had been intermittent and that the applicant had worked in 3 different Navodaya Vidyalayas. Learned counsel for the applicant had not been able to show that the applicant was transferred from one Navodaya Vidyalaya to another. The applicant had worked on consolidated salary as a part time teacher which shows that he had not been inducted as a regular PGT teacher. We also find that the respondents have mentioned that there was no vacancy of PGT (Physics) teacher at Jahangirabad and in response to this, the applicant also stated that there was a vacancy on 03.12.97, when he went to join the post of PGT (Physics) teacher. Learned counsel for the applicant claims that the vacancy is a long term one. However, we find that the order dated 08.12.97 of the Deputy Director states that there was no sufficient work related to physics subject and that vacancy did not exist.

5. Learned counsel for the applicant, cited

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the apex court judgment in R. Mahapatra versus State of Orissa and others, AIR 1991 SC 1286, which has slightly different facts as the applicant was appointed as Hindi teacher in Banigochha M.E. School (Orissa) for a period of 89 days or till a candidate selected by the State Selection Board was made available and he continued to work barring Summer Vacation as an ad-hoc teacher for 89 days at a time till 1991 when he filed the writ. Besides there was a specific statutory provision for validation of such appointments. We cannot apply the same here because the applicant had not even placed any order of his appointment before us and the engagement of the applicant was intermittent in three different schools. Therefore, the facts and circumstances of the present case are different. The applicant has thus not been able to establish any right for continuous as PGT teacher and for regularisation on the post.

6. The applicant may apply for the post when the regular appointment is advertised. In the facts and circumstances, we do not find any reason to entertain the application. The OA is dismissed in limine. No order as to costs.


Member-J


Member-A