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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1380 of 2003

Allahabad this the 16th day of January, 2004

Hon'ble Mr. V.K. Majotra, Vice Chairman,
Hon'ble Mrs. Meera Chhibber, Member(J)

Krishna Chandra Shukla, aged about 60 years, Son of Late Ram Shiromani Shukla, Permanent resident of 25/1, Patel Nagar, 40 Feet Road, Patel Nagar, Mughal Sarai, District Chandauli(U.P.)

Applicant

By Advocate Shri Shyamal Narain

Versus

1. The Union of India, through Secretary, Ministry of Human Resource Development, Government of India New Delhi.
2. The Chairman, Central Tibetan Schools Administration, Ministry of Human Resource Development (Government of India) Department of Secondary and Higher Education) Ess Ess Plaza, Plot No.1, Community Centre, Sector-3, Rohini, Delhi-110085.
3. The Secretary, Central Tibetan Schools Administration, Ministry of Human Resource Development (Government of India), (Department of Secondary and Higher Education) Ess Ess Plaza, Plot No.1 Community Centre, Sector-3, Rohini, Delhi-110085.

Respondents

By Advocate Shri N.C. Tripathi

O R D E R (Oral)

By Hon'ble Mr.V.K. Majotra, Vice Chairman

The applicant has challenged the order dated 18.03.2003(annexure-1) conveying that D.P.C. meeting held on 02.09.1999 did not find the applicant

eligible as per instructions of Government of India dated 12.08.1987 read with those dated 03.11.1987.

2. By virtue of the present O.A., applicant has sought grant of selection scale to him as Trained Graduate Teacher (For short T.G.T.) w.e.f., the due date/ 1997 alongwith all arrears of pay and allowances together with penal interest. He has also sought quashment of impugned order dated 02.09.99 as conveyed through annexure-1 dated 18.03.2003.

3. Learned counsel of the respondents stated that he does not wish to file the counter-affidavit and raised the preliminary objection that this O.A. is badly time barred. Cause of action for the applicant having arisen in the year 1999. The present application has been filed much after the expiry of limitation period i.e. on 11.11.2003. He further stated that applicant is stated to have made repeated representations, last two being 11.11.2002 and 11.12.2002 annexure-9 and 10 respectively. Learned counsel stated that repeated representations would not extend the period of limitation. He relied on Jaidev Gupta Vs. State of H.P. and another 1998 S.C.C.(L&S) 1587 in this behalf.

4. Learned counsel of the applicant contended that as per annexure-8 dated 21.08.1998 applicant's case for selection scale was considered by the D.P.C. held on 07.08.98 though he was not recommended for grant of selection scale by the D.P.C. He argued that non-recommendation of applicant by D.P.C. held on 07.08.98 implies that applicant was eligible for consideration on 07.08.98 for grant of selection

scale. However, later on as conveyed vide annexure-1 dated 18.03.2003 the respondents have changed the stance stating that the applicant was not found eligible as per instructions dated 12.08.1987 and 03.11.1987 at the time when D.P.C. meeting held on 02.09.99 did not recommend his case for grant of selection scale. Learned counsel stated that non grant of selection scale since 1997 or even earlier was recurring cause of action. He further stated that once the applicant was found eligible for consideration by the D.P.C. for grant of selection scale, he could not be held ineligible by a latter D.P.C. Learned counsel drew our attention to annexure-6 O.M. dated 12.08.1987 relating to revision of pay scale of school teachers. Vide this circular T.G.Ts are eligible for grant of selection scale after 12 years of senior scale and attainment of qualification laid down for P.G.Ts. These qualifications are stated to have been revised vide Ministry's letter dated 03.11.87 modifying the qualification for grant of selection scale to the effect that ^{for lb} T.G.Ts who have already completed 18 years "of service the requirement of acquiring the qualification for the next higher grade", is waived. Learned counsel contended that it implied that while T.G.Ts who had attained qualification for P.G.Ts could be granted selection scale after 12 years of service in the senior scale but those who had not attained qualification for P.G.Ts. could be considered for grant of selection scale after 18 years of service in the senior scale of the Court. Learned counsel maintained that the applicant had completed more than 18 years of service in the senior scale and, as such, though he did not have qualification for P.G.T., he could be

considered for grant of selection scale in terms of Ministry's letter dated 03.11.1987.

5. Basically, this application is liable to be dismissed on the ground of limitation. While applicant has sought grant of selection scale w.e.f. 1997 and even prior to 1997 when he became eligible, Present application has been filed much after the expiry of limitation period i.e. on 11.11.2003. The applicant had been informed about non grant of selection scale vide annexure-8 dated 21.08.1998. D.P.C. held on 02.09.99 had also not recommended applicant's case for grant of selection scale. The respondents are not required to inform about the rejection of promotion, or ^h ~~non~~ grant of higher pay scale etc. to the applicant. When applicant's juniors were granted higher pay scale on the basis of recommendation of D.P.C. held on 02.09.99, the applicant should have sought redressal of his grievance immediately within the prescribed limitation. He kept on making representations such as annexure-9 and 10, without resorting to legal remedies. Obviously, the applicant slept over his rights, if any, and repeated representations would not enlarge the period of limitation. In Jaidev Gupta (supra) also, it has been held that number of representations to departmental authorities is not a valid ground for approaching the Tribunal late. Thus, in our considered opinion, the present O.A. can be dismissed on the ground of limitation itself, however, it is liable for dismissal even on merits.

6. Admittedly, the applicant did not possess the P.G.T. qualifications and, as such, it is his case that in terms of Ministry letter dated 03.11.1987, he was eligible having completed 18 years of service in the senior scale. On being specifically asked, how the applicant had completed 18 years of service in senior scale, learned counsel of the applicant referred to para-11 of the O.A. In this para, applicant has stated that he became eligible for grant of selection scale w.e.f. 1997 (i.e. upon completion of 18 years of service in the Senior Scale). The learned counsel was specifically asked to point out ^{ly} any documentary evidence or specific averment about the order and the dates of such orders when the applicant was accorded senior scale, learned counsel failed to indicate any such orders and the date ^{of} grant of senior scale. In the absence of such specific averment and evidence therefor, the applicant's claim for having rendered 18 years of service in the senior scale, is not established. Learned counsel relied on annexure-8 dated 21.08.1998 that consideration and non-recommendation by D.P.C. held on 07.08.1998 should establish that the applicant was eligible for grant of senior scale on 07.08.98 and, as such, he must have completed 18 years of service in the senior scale on 07.08.98. We do not agree to the contention of learned counsel of the applicant in this regard. Non recommendation of the applicant for grant of selection scale vide annexure 8 does not, by any stretch of imagination, indicate that the applicant was eligible for grant of selection scale on 07.08.1998. Non-recommendation by D.P.C. would also mean that the applicant was not eligible for grant of selection scale. However, it is true that it was more clearly stated in annexure-1 dated 18.03.2003

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that the applicant was not eligible for grant of selection scale.

7. In view of the facts and circumstances, and discussions made above, this O.A. has no merit and is accordingly dismissed. However, there will be no order as to costs.

Member (J)

/M.M./

Vice Chairman

16.01.04