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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the **02nd** day of **APRIL** 2008

Original Application No. 1121 of 2007

Hon'ble Mr. Justice A.K. Yog, Member (J)

Hon'ble Mr. N.D. Dayal, Member (A)

Miss Veronica Lyall, D/O Sri V.C. Lyall, R/o 520, G.T.B. Nagar,
Distt: Allahabad

... Applicant

By Adv: Sri A.A. Khan and Sri S.M. Ali

V E R S U S

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Personnel Officer and Executive Governor, Oak Grove School, Northern Railway, Baroda House, New Delhi.
3. Principal Oak Grove School, Northern Railway, Jharipani, Distt: Dehradun.

... Respondents

By Adv: Sri P. Mathur

ORDER

By Justice A.K. Yog, Member J

Heard Sri S.M. Ali, learned counsel for the applicant and Sri P. Mathur learned counsel for the respondents.

2. The present OA has been filed alongwith application for condonation of delay. Order sheet shows that the notice was issued to the respondents for filing objection against delay condonation application No. 2343/07. No objection against the delay condonation application has been filed. The respondents were granted time to file objection against the aforesaid delay condonation application vide order dated 5.2.2008 and directed to

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list the case on 27.2.2008. It appears that the case was not listed for some reason on the date fixed and it is now listed today. We do not propose to grant further time.

3. We have carefully gone through the delay condonation application as well as OA and the documents annexed therewith. Without going into the technicalities of condoning time we allow this Delay Condonation Application, in view of the submissions made by the learned counsel for the parties that itself may be heard and decided finally at admission stage itself today. Misc. Application for condoning the delay is allowed. OA shall be treated to have been filed within time.

4. The case of the applicant/Miss Veronica Lyall has the checkered and interesting history. The applicant was working as Assistant Mistress in one of the school owned by the Railway Department and working as such at Oak Grove School, Northern Railway, Jharipani, Distt: Dehradun. From the pleadings contained in the OA and the documents annexed thereto, it is clear that at one point of time there were certain charges against her; enquiry was held and she was removed from service vide order dated 05.01.1991; her departmental appeal (as may be contemplated under relevant rules) was dismissed on 12.07.1991 and finally her revision was also rejected on 25.01.1993. The record^{by} shows that the charges leveled against the applicant (without making comments on our own about correctness or incorrectness of charges) it is clear that such charges were of very grave nature; the applicant filed OA No. 529/92 before this Tribunal which was allowed; order of termination and consequent

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appellate and revision^{al} order were set aside with direction to the respondents to initiate disciplinary proceedings from the stage of enquiry/Annexure 4 to the OA.

5. The said order was challenged by the respondents/Union of India and others of the OA by filing Writ Petition No. 41617/99 before Allahabad High Court. The said Writ Petition was dismissed on 5.5.2004/Annexure 5 to the OA; in pursuance to the said order of the Tribunal the respondents issued order dated 31.5.2000 directing the applicant to join at Bareilly; applicant took the stand that she should have been allowed to join at Dehradun and refused to join at Bareilly; order directing the applicant to join at Bareilly appears to have been challenged by Writ Petition No. 52029/00 which was again disposed off with direction to the respondents authority to decide her representation/Annexure 12 to the OA; it further transpires that her representation in pursuance the said order of High Court dated 20.11.2000 was decided vide order dated 10.01.2001; the applicant filed application in her above Writ Petition No. 52029/00 for modification; vide order dated 08.02.2002 a Division Bench of Allahabad High Court rejected the said representation by making observation ".....The order rejecting the representation is certainly a subsequent event. It may be a subject matter of challenge in a fresh Writ Petition.....". Meanwhile, the respondents also approached the respondents' authority to post her at Dehradun and one Ms. Shah Banu Rizvi, at Dehradun to be posted at Bareilly; lastly, the applicant filed a Writ Petition No. 46087/02 which was dismissed by the Allahabad High Court vide order dated 12.09.2006 with the observation that it is open for the applicant to

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avail other remedy which may be available to her/Annexure 14 to the OA and in view of the said order she has filed the present OA.

6. Learned counsel for the applicant has conceded that the applicant did not join at Bareilly and also did not join the disciplinary proceedings.

7. Be that as it may, the present OA is ^{an}highly ^{an}misconceived in view of the fact that ^{an}~~there is nothing on~~ ^{an}record ^{an}to this OA to ^{an}say ^{an}that order dated 10.02.2001 rejecting her representation (decided in pursuance to the High Court judgment and order dated 30.11.2000/Annexure A-13 to the OA) has not been challenged in this OA.

8. Learned counsel being confronted with the above, submits that he be allowed time to make requisite amendments in this OA.

9. We are not convince that the said order in absence of any plausible explanation for not challenging the said order particularly when said order is within the knowledge of the applicant and there is no averment that the said order dated 10.01.2001 was not communicate to her. Obviously, said explanation cannot be offered by the applicant in as much as she herself filed copy of the order dated 08.02.2002 (which is referred to the said order dated 10.01.2001/Annexure 13 to the OA).

10. The OA is labile to be dismissed on the said ground in as much as no effective relief can be granted to the applicant, even if, the present OA is allowed in the light of the relief claimed therein.

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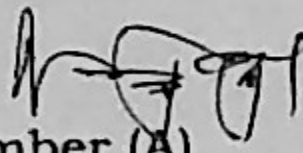
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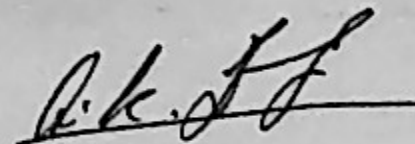
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It is made clear to the aggrieved party to challenge the same if he feels aggrieved in accordance with law.

11. In the end we observe that disciplinary enquiry against the applicant if not completed may be completed. Our observation will be treated redundant if the applicant herself deliberately avoid in the disciplinary proceedings.

12. With the above observation the OA is disposed off. No costs.


Member (A)


Member (J)

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