

Shri S.N.Sahu .... Applicant  
Versus  
Union of India & Others .... Respondents

Order dated 02-02-2010.

C O R A M  
THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)  
A N D  
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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In this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, the Applicant challenges the order of termination dated 05.10.2006 seeking to quash the said order and for declaration of Article 81(b) of the Education Code as *ultra vires* and violative of Articles 14, 16 & 311 (2) of the Constitution of India on the grounds mentioned in his Original Application. As it appears, he has approached this Tribunal without availing of the opportunity by way of preferring appeal on the ground that there is no such provision of making appeal against an order terminating the services of an employee under the provision of Article 81(b) of the Education Code of KVS.

2. By fling reply, Respondents besides opposing the stand of the Applicant on merit, questions the very maintainability of this OA on the ground of invoking the jurisdiction of this Tribunal without availing the other remedy by way of filing appeal, as provided under Article 81(c) as against an order passed under Article 81(b) of Education Code of KVS.

3. Heard Learned Counsel for both sides and perused the materials placed on record. It has fairly been submitted by Learned Counsel for the Applicant that under the bona fide impression that there is no provision for making appeal against an order of termination made under the provision of Article 81 (b), the applicant has approached this Tribunal without preferring

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any such appeal and that, he is ready and willing to make such appeal in case he is permitted to do so even at this distance of time. Although this was opposed by Learned Counsel for the Respondents, we see no justification of the opposition made by Learned Counsel for the Respondents; because permitting the applicant to prefer appeal and directing the Respondents to consider and dispose of the same on merit without being influenced by the delay in preferring such appeal, would not cause any prejudice to either of the parties. Hence, as prayed for by Learned Counsel for the Applicant, this Original Application is disposed of with liberty to the Applicant to prefer appeal to the Appellate Authority within a period of 15 days hence with a petition seeking condonation of delay and as a consequence, the Appellate Authority [to whom such an appeal would be preferred by the Applicant] is hereby directed to condone the delay in preferring the appeal belated and to consider the appeal of the Applicant on merit and dispose of the same with a reasoned order within a period of 60(Sixty) days from the date of receipt of such appeal and communicate the result thereof to the applicant within the said period. No costs.

K. Thankappan  
(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

C.R. Mohapatra  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)