

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 547 of 2003

Jabalpur, this the 25th day of August, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Nasir Khan S/o Shri Abdul Aziz
Khan, aged about 34 years, R/o
Kanhawara District- Seoni, M.P.

APPLICANT

(Applicant - Shri Kumaresh Pathak)

VERSUS

1. The Navodaya Vidyalaya Samiti
through Director, A-139
Kailash Colony New Delhi.
2. The Principal Jawahar
Navodaya Vidyalaya Kanhawara
District- Seoni, M.P.

RESPONDENTS

O R D E R (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

By this Original Application the applicant has prayed that the respondents be directed to give an opportunity to the applicant to compete for the selection to the post of Post Graduate Teacher (in short P.G.T) as per the direction given by the Hon'ble High Court in 1993.

2. The brief facts of the case are that the applicant was initially engaged as part time teacher in the Jawahar Navodaya Vidyalaya, Kanhawara in the year 1991 but was removed from service from 20.05.1992. The applicant filed a petition before the Hon'ble High Court. A copy of the order passed on MP No. 1420/1992- Nasir Khan Versus Navodaya Vidyalaya Samiti and another has been annexed, which shows that while disposing of the Misc. Petition the Hon'ble High Court directed the



respondents therein that they should advertise the post if not already advertised and if the petitioner has not already applied for the posts, he be granted an opportunity to compete for the posts along with others.

3. Now the applicant has come to this Tribunal after a lapse of more than a decade to claim that the respondents be directed to provide opportunity to the applicant to compete for the selection. It is nowhere mentioned in the petition that the applicant applied for the said vacancy as is mentioned in the Hon'ble High Court's order dated 07.05.1993. The relief which was granted to the applicant by the Hon'ble High Court while deciding the MP No. 1420/1992 was with respect to the vacancies which were then existing. It was not for future vacancies. Consequently the applicant's relief now for direction to the respondents to consider the applicant for other vacancies cannot be accepted.

4. It is also seen that the present application is highly barred by limitation. The learned counsel for the applicant submitted that he has made representation and was waiting for a call from the respondents but he did not receive any intimation so the applicant has now come to this Tribunal.

5. Section 21 of the Administrative Tribunals Act is very differently worded. According to it if a representation is made and the same is not decided within 6 months it becomes open to the aggrieved person to approach the Tribunal within one year thereafter. Repeated representations would not provide any cause to

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approach the Tribunal after expiry of the limitation as per Section 21 of the Administrative Tribunals Act. No reason for delay has been given nor any application for condonation has also been filed. As has been observed by the Apex Court in the case of S.S. Rathore Versus State of Madhya Pradesh, reported in AIR 1990 SC Page 10, the present petition is barred by limitation also. The relevant para of the Hon'ble Apex Court's decision is quoted below :


"15. In several States the Conduct Rules for government servants require the administrative remedies to be exhausted before the disciplinary orders can be challenged in court. Section 20(1) of the Administrative Tribunals Act, 1985 provides :

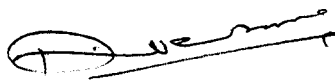
"20.(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances."

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20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle."

6. In view of the discussions made above the present claim of the applicant besides being highly barred by limitation, also has no merit. The Original Application is accordingly dismissed.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (J)