

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

21.10.2011

OA No. 481/2011

Ms. Sangeeta Sharma; Counsel for applicant.

Heard learned counsel for the applicant.

The OA is dismissed by the a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

(Justice K.S.Rathore)
Member (J)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 21st day of October, 2011

ORIGINAL APPLICATION No. 481/2011

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Pramod Pathak son of Shri Shiv Shankar Pathak, aged about 35 years, resident of Plot NO. 3, Siddarth Colony, Chandra Kirti, in front of Sodala Thana, Anaj Mandi, Ajmer Road, Sodala, Jaipur.

... Applicant

(By Advocate: Ms. Sangeeta Sharma)

Versus

1. Union of India through through its Secretary, Ministry of Labour & Employment, Govt. of India, Jan Shakti Bhawan, New Delhi.
2. Director, Central Board for Workers Education, (Ministry of Labour & Employment, Government of India), North Ambazari Road, Nagpur.
3. The Zonal Director, Central Board for Workers Education, (Ministry of Labour & Employment, Government of India), 1st Floor, Sarai Kale Khan, Nizamuddin (East), New Delhi.
4. Regional Director, Central Board for Workers Education, (Ministry of Labour & Employment, Government of India), Madrampura, Civil Lines, Jaipur.

... Respondents

(By Advocate: -----)

ORDER (ORAL)

The present OA is directed against the order dated 13.09.2011 (Annexure A/1) issued by the respondents to invite applications for 23rd Education Officers Training Course. The last date for receipt of the application is fixed as 28.10.2011. The challenge is made on the ground that the applicant had applied for 22nd Education Officer Training



Course in response of advertisement dated 24.07.2005. The examination was held on 25.02.2007 but no result has been declared and without declaring the result of 22nd Education Officers Training Course, the respondents have invited the applications for 23rd Education officers.

2. Be that as it may, we have considered the submission made on behalf of learned counsel for the applicant. The advertisement for 22nd Education Officer Training Course was published way back on 24.07.2005 and the examinations were held on 23.07.2007. Since then the applicant has not made any representation to the respondents. He has now filed this OA after lapse of more than 4 years by challenging the letter dated 13.09.2011 by which the respondents have invited applications for 23rd Education Officer Training Course. We find no illegality in the action of the respondents as 22nd Education officers Training Course is already completed that's why the respondents have invited applications for 23rd Education Officers Training Course. We are not inclined to interfere with letter dated 13.09.2011 issued by the respondents. The applicant cannot challenge the earlier advertisement dated 24.07.2005 after a lapse of more than 4 years in view of the judgment rendered by the Hon'ble Supreme Court in the case of in the case of **D.C.S. Negi vs. Union of India & Others** decided on 07.03.2011 [Petition for Special Leave to Appeal (Civil) 7956/2011] wherein Hon'ble Supreme Court held that:-



"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:-

"21. Limitation.-

- (1) A Tribunal shall not admit an application,-
 - (a) in a case where a final order such as it mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
 - (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.
- (2) Notwithstanding anything contained in sub-section (1), where-
 - (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the mater to which such order relates; and
 - (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.



(3) Notwithstanding anything, contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clause (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3)."

3. Consequently, in view of the judgment of the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others**, we are of the view the present OA deserves to be dismissed on account of delay & latches. However, the applicant is at liberty to file representation before the competent authority for redressal of his grievances, it is for the respondents to consider the same in accordance with the provisions of law.

4. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar

(Anil Kumar)
Member (A)

K. S. Rathore

(Justice K.S.Rathore)
Member (J)

AHQ