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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

(orders reserved on 17.11.2014)

O.A.NO.060/00101/2014 Date of order:-02.12.2014

Coram: **Hon'ble Mr. Uday Kumar Varma, Member (A).**
Hon'ble Dr. Brahm A.Agrawal, Member (J).

Monika w/o Satish Sharma, r/o House No.2864/3, Sector 49-C,
Chandigarh.

.....Applicant.

(By Advocate :- Mr. Parvesh Saini)

Versus

1. Chandigarh Administration through the Education Secretary, Union Territory, Chandigarh.
2. The Director, Public Instruction(S), Chandigarh Administration, U.T. Chandigarh.
3. The District Education Officer, Union Territory, Chandigarh.

...Respondents

(By Advocate : Mr. Arvind Moudgil).

ORDER

Hon'ble Mr. Uday Kumar Varma, Member (A):

Applicant Monika has filed the present OA praying for the following reliefs:-

"i) to quash the impugned order dated 4.11.2013 (Annexure A-9) passed by the respondent no.2, whereby the representation of the applicant was rejected and she was not allowed to rejoin her services as NTT Guest

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Teacher against available vacant regular post of NTT in Govt. School of U.T. Chandigarh;

ii) It is prayed that the instant case in favour of the applicant in terms of decision of this Hon'ble Tribunal vide its order dated 17.2.2011 (Annexure A-7) passed in O.A.No.538/CH/2010 titled as "Ramphal & Ors. vs. Chandigarh Administration & Ors." and the order dated 2.6.2011 passed by the Hon'ble Tribunal in O.A. No.388/CH/11 titled as "Manpreet Kaur & Ors. vs. Chandigarh Administration & Others" and the order dated 21.12.2012 passed by this Hon'ble Tribunal in O.A.No.1491/CH/12 titled as "Seema Sharma vs. Chandigarh Administration & Others";

iii) It is further prayed to quash the action of the respondents of replacing the applicant from the post of guest faculty teacher by another set of guest faculty teacher in violation of the law laid down by the Hon'ble Supreme Court in Rattan Lal vs. State of Haryana & Ors. AIR 1987 SC;

iv) It is further prayed to direct the respondents to allow the applicant to re-join her services in the same manner as they have done in the case of similar situated guest teachers i.e. Manpreet Kaur, Gurpreet Kaur, Barinder Kaur and Seema Sharma who were removed in the year 2010 from their services and again allowed to rejoin their services in the year 2012 and 2013, while deciding their representations, in pursuance to the orders passed in the cases of "Manpreet Kaur & Others vs. Chandigarh Administration & Others" and the order dated 21.12.2012 passed by this Hon'ble Tribunal in O.A.No.1491/CH/12 titled as "Seema Sharma vs. Chandigarh Administration & Ors."

2. Facts as projected by the applicant are that she had joined the services of the respondent department as Nursery Teacher (Guest faculty) for two sessions i.e. 2008-2009 & 2009-10 in different government schools and she was relieved on 8.1.2010 (A-2). The

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applicant is aggrieved of the action of the respondents by replacing her with another set of guest faculty teacher which is in violation of the law laid down by the High Court that the ad hoc/guest faculty teachers are entitled to continue in service till regular selections are made and cannot be replaced by another set of adhoc/persons appointed on guest faculty basis. After about more than three years, the applicant made a representation dated 18.1.2013 to respondent no.2 to issue her appointment letter to rejoin as NTT Teacher (Guest faculty) against one of the vacant posts. In the said representation, the applicant has relied upon the order dated 17.2.2011 passed in O.A.No.538/CH/2010. When she did not receive any reply/response from the department, she filed OA No.669/CH/2013 before the Tribunal which was disposed of vide order dated 17.5.2013 by directing respondent no.3 to decide representation filed by the applicant within a period of three months. On the basis of the order dated 17.5.2013, respondent no.2 rejected the claim of the applicant by stating that "Smt. Monika has been relieved due to joining of regular hand, moreover, in 2010 neither the said applicant had applied for the post of NTT against the advertisement of posts published during July, 2010 nor appeared in the interview, her case is barred of limitation and not covered under O.A.No.538/CH/2010 as she has approached for appointment after a gap of about 4 years". Hence the present Original Application.

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3. Pursuant to notice, the respondents have contested the claim of the applicant by filing written statement. They have stated that the applicant has not approached the Tribunal with clean hands. They have also stated that the OA is barred by the law of limitation as the applicant was relieved from service on 8.1.2010 and did not approach the Court of law for more than three years. They have further stated that the Chandigarh Administration again invited applications for NTT Guest Faculty Teachers in the year, 2010, but the applicant had neither applied for the post of NTT (guest faculty) nor she appeared for the interview. They have further stated that the applicant was relieved due to joining of Smt. Poonam as Nursery Teacher on regular basis. They have thus prayed for dismissal of the OA.

4. The applicant has filed a rejoinder by generally reiterating the averments made in the OA.

5. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsel for the parties.

6. It is not disputed that the applicant in the first instance was replaced by a regular appointee in 2010. This action of the

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respondents cannot be faulted as it is in accordance with the rules and has been held lawful in several judicial pronouncements. She has also, incidentally, not made the regular appointee a respondent. Therefore, her plea vis-à-vis the replacement by another contract teacher is misconceived and is rejected.

7. Her other claim is that she was not given the consideration as was given to similarly situated guest teachers namely Manpreet Kaur, Gurpreet Kaur, Barinder Kaur and Seema Sharma in terms of the directions given by this Tribunal in O.A.No.538/CH/2010 (Ramphal & Ors. vs. Chandigarh Administration & Ors.) decided on 17.2.2011; order dated 2.6.2011 in O.A.No.388/CH/2011 (Manpreet Kaur & Ors. vs. Chandigarh Administration & Ors.) and order dated 21.12.2012 passed in O.A.No.1491/CH/2012 (Seema Sharma & Ors. vs. Chandigarh Administration & Ors.).

8. The respondents in their order while deciding her representation have stated that the Education department, Chandigarh Administration again invited applications for Guest Faculty Teachers in different categories i.e. lecturer/TGT Punjabi/JBT/NTT in the month of June 2010 but the applicant did not apply for the post of NTT nor appeared for the interview. During the arguments it was clarified by the respondents that the other Guest teachers as mentioned above

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were given the benefit of Tribunal's directions because they approached the authorities in pursuance of these directions and were accordingly accommodated. The applicant is now approaching them after a gap of three years when the vacancy position has changed. The applicant has not disputed the fact that she has approached the respondents in 2013 while the earlier Tribunal directions were issued in 2011.

9. In view of the above discussion, we are of the considered view that the impugned order passed by the respondents on 4.11.2013 does not merit any interference. The OA, therefore, is not maintainable. However, the respondents, as and when, they appoint guest faculty teachers in future, which will be of course through an open advertisement, will consider the case of the applicant if she applies for the same and is otherwise eligible for the same.

10. The present OA is disposed of with the above directions. Parties will bear their respective cost of litigation.

(DR. BRAHM A. AGRAWAL)
MEMBER (J).

(UDAY KUMAR VARMA)
MEMBER (A)

Dated:- December 02, 2014.

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