

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**RA-182/2016
in
TA-6/2010**

New Delhi, this the 24th day of October, 2016.

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)

V.K. Kapoor
S/o late Sh. Satprakash Kapoor
Group-A
R/o 356, Sector-A, Pocket-C
Vasant Kunj,
New Delhi-110070

... Applicant

(Through Sh. A.K. Roy)

Versus

1. The Central Board of Secondary Education,
Through its Secretary/Chairman,
Siksha Kendra,
2, Community Centre, Preet Vihar,
Delhi-110092.

2. Union of India,
Through the Secretary,
Ministry of Human Resources,
Development & Education,
New Delhi.

... Respondents

(through Ms. Surbhi Mehta for Sh. Amit Bansal for CBSE)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli

This review is directed against the judgment dated 10.11.2014 passed by this Tribunal in TA No. 06/2010. The applicant had challenged the order of penalty of compulsory retirement imposed upon him, as also the order of the Appellate Authority, and consequential direction for payment of the full retirement benefits to him. This TA was dismissed vide the aforesaid order. The applicant filed Writ Petition No. 2403/2016 before the Hon'ble High Court. It

seems that during the pendency of the Writ Petition, the applicant pleaded before the High Court that certain period had been treated as dies-non contrary to facts and against the law. Hon'ble High Court taking note of the said prayer made following observations and accordingly granted liberty to the applicant to file a review application on the second aspect, i.e. relating to treating certain period as dies-non:

"11. Be that as it may, in case the petitioner had argued and contested treatment of the said period as dies non, it will be open to the petitioner to file a review petition. Of course, if the contention was not argued and pressed, the petitioner cannot raise any grievance. This observation has been made as validity of the order dated 9.7.2001 treating the period between 31.7.2000 to 7.9.2000 and 19.2.2001 and 18.7.2001 as dies non is an entirely different and distinct cause of action. This aspect and challenge to the order dated 9.7.2001 was permitted to be raised in the pending Civil Suit challenging the order of ' compulsory retirement', by the order dated 14th Sept., 2007 in L.P.A. No. 625/2001 arising from order dated 5th October, 2001 passed in a Writ Petition questioning the order dated 9.7.2001."

2. The Hon'ble High Court has observed that if the contention regarding treatment of the period as dies non was not argued and pressed before the Tribunal, the petitioner cannot raise any grievance. We have perused the original OA filed by the applicant. We find that there is no challenge to the order passed by the respondents treating the period as dies-non. We also notice that no reference is made to this during the course of the arguments when OA was decided. Since there is no challenge in respect to the order of the respondents treating the period as dies-non, the question of having made any argument does not arise.

3. In this view of the matter, the present review is not sustainable in law, dismissed accordingly.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/