

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

O.A.No.271/2015

New Delhi, this is the 14th Day of March, 2017

Hon'ble Shri V. Ajay Kumar, Member(J)
Hon'ble Shri P.K. Basu, Member(A)

1. Arun Kumar Singh, Teacher
Aged about 40 years
s/o Ganesh Singh
Nigam Pratibha Vidyalaya
C-4E, Janakpuri, New Delhi Applicant

(By advocate: Mr. Ranjit Sharma)

Versus

1. Govt. of N.C.T. of Delhi
Through the Principal Secretary
(Education Department)
At Old Secretariat, Delhi-54
2. The Director of Education,
Govt. of N.C.T. of Delhi
Old Secretariat, Delhi-54.
3. South Delhi Municipal Corporation,
Through the Commissioner
At SP Mukherjee Civic Centre,
J.L.N. Marg, New Delhi-2 ...Respondents

(By Advocate: Mr. Vijay Kumar Pandita)

ORDER (Oral)

By Hon'ble Shri V. Ajay Kumar, M(J):

Heard the learned counsel for the parties.

2. The applicant who is presently working as Assistant Teacher under the 3rd respondent South Delhi Municipal Corporation filed the present O.A. seeking following reliefs:-

"i) direct the respondents to allow the Applicant to join the Directorate of Education, Govt. of N.C.T. Delhi, as TGT (N.Sc) and fix his seniority accordingly along with the teachers who have joined as TGT in pursuance of their selection vide promotion order dated 11.12.2012;

AND/OR

ii) pass such other order/s as may be deemed fit & proper."

3. The case of the applicant is that consequent on his selection, he was promoted to the post of TGT (Natural Science) under the 2nd respondent, Directorate of Education, NCTD vide order dated 11.12.2012 along with others.

4. Vide Annexure A-2 dated 23.01.2013 the 2nd respondent, directed the applicant and other candidates to report for duty, after being relieved from MCD, for further assignment, within 20 days. The Department of Education, NCTD, vide Annexure A-3 dated 15.02.2013, directed the MCD to relieve the teachers who were promoted on 01.04.2013 with the direction to report for duty. However, though, the 3rd respondent SDMC issued Vigilance Clearance and No dues Certificate (NDC) in April 2013, but not relieved the applicant to enable him to join with the 2nd respondent Department of Education, NCTD.

5. It is the further case of the applicant that after the vigilance certificate and no dues certificate were issued vide annexure-A-4 (Colly), he had to visit his native place Bihar to take care of his ailing mother and on his return from native place after summer vacations, he submitted his request vide letter dated 17.06.2013 (Annexure A-5) to the respondents to permit him to join duty, as he came to know that certain teachers, who were also promoted

to the post of TGTs along with him, were allowed to join even after the cut of date vide Annexure A-6 (Colly). The 2nd respondent vide impugned Annexure-A-1 dated 25.07.2013 rejected the said request.

6. The applicant also filed M.A. No. 197/2015 along with OA seeking condonation of delay of 160 days in filing the OA. It is submitted on behalf of the applicant that he is the only son of his old-aged parents. His mother is bed-ridden due to paralysis and his son is mentally retarded. The applicant being the single male member of the family has not only to look after them but also attend his duty. In the circumstances, he could not file the OA immediately and accordingly he prayed for condonation of delay. In the circumstances and for the reasons mentioned in the M.A. and in the interest of the justice and as the condonation of delay does not affect any other person, the same is condoned and the MA is accordingly allowed.

7. The respondents vide their counter while justifying the extension of time, to join after cut of date to certain persons who were referred in Annexure A-6 (Colly), submits that they had sought permission to join in the promotional post within the time allowed, whereas the applicant never approached them within the time allowed. Hence, the applicant is not entitled for the relief claimed.

8. The Respondent No. 3-SDMC, under which the applicant is at present working, has neither filed their counter nor advanced any arguments, hence its right to file counter stood forfeited on 23.08.2016.

9. It is to be seen that if an employee working under a particular employer is to join with another employer, he is to be relieved first by his present employer. In the present case, it is nobody's case that the applicant was ever relieved from the

Respondent No. 3-SDMC, enabling him to join with the 2nd respondent, Directorate of Education. When the respondent No. 3 has not relieved the applicant to join the promoted post in another department, his request cannot be rejected by the respondents when they have given the identical benefit of extension of time to certain similarly placed persons, though for different reasons. However, the applicant having not questioned the action of the respondents in not relieving him from SDMC, for a considerable period, is not entitled for counting his promotion along with others.

10. In the circumstances, the O.A. is allowed and the Respondent No. 3-SDMC shall relieve the applicant forthwith and the Respondent No. 2 will permit him to join in the promoted post of TGT, (N.Sc.). However, in the circumstances, the applicant's promotion shall be prospective. No costs.

(P.K. Basu)
Member(A)

(V. Ajay Kumar)
Member(J)

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