

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.4153 OF 2014

New Delhi, this the 11th day of March, 2016

CORAM:

HON^oBLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND

HON^oBLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Inderpal,
Ex-Vice-Principal,
S/o Risal Singh,
Aged about 60 years,
R/o A-92, Jagatpuri,
Nathu Colony Chowk,
Shahdara,
Delhi 110093

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Applicant

(By Advocate: Mr.G.S.Charya)

Vs.

1. Director of Education,
Directorate of Education,
Old Secretariat,
Delhi

2. The Regional Director (C/W),
Directorate of Education,
District North,
Lancer Road, Delhi

3. Govt. of NCT,
Delhi Secretariat, I.T.O.,
New Delhi

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Respondents

(By Advocate: Mr.K.M.Singh)

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ORDER**Raj Vir Sharma, Member(J):**

The applicant has filed the present O.A. seeking the following reliefs:

- õ(a) set aside the order dated 21.01.2014, whereby the claim of the applicant for extension for re-employment the Post of Vice Principal of GSV, Gokhle Marg, Mori Gate, Delhi was rejected by the respondent;
- (b) direct the respondent to re-employ the applicant and give him all the consequential benefits along with full back wages w.e.f. 01.01.2014 till his re-employment.õ

2. The respondents have filed a Counter Reply opposing the O.A. The applicant has filed a Rejoinder Reply thereto.

3. We have perused the pleadings, and have heard Shri G.S.Charya, the learned counsel for the applicant, and Shri K.M.Singh, the learned counsel appearing for the respondents.

4. The brief facts of the case, which are not disputed by either side, are that while working as Vice-Principal, G.S.V.Gokhle Marg, Delhi, the applicant retired from service on attaining the age of superannuation on 31.12.2012. Considering his application for re-employment in service after retirement, the respondents re-employed the applicant for a period of one year with effect from 1.1.2013 to 31.12.2013. Thereafter, the applicant again applied for extending the period of his re-employment from 1.1.2014 to 31.12.2014. The applicant's representation for extension of the period of his re-employment was considered and rejected by respondent no.2, by passing a speaking order, which was communicated to the applicant and others

concerned on 21.1.2014. The speaking order passed by respondent no.2 reads thus:

õORDER

Whereas, Sh. Inder Pal Singh, Vice-Principal, GSV, Gokhle Marg, Mori Gate, Delhi (retired on 31.12.2012) re-employed vide Order No.RDE(C/N/W)Re-emp./1640 dated 31.12.2012 for a period of one year i.e. up to 31.12.2013 and he applied for extension of re-employment w.e.f. 01.01.2014 to 31.12.2014 (DOB 12.12.1952).

And whereas, a meeting was conveyed by Worthy RD (C/W) on 06.12.2013 to discuss the issue related to extension of re-employment in r/o Sh.Narad Rai, Principal which was also attended by Sh.Narad Rai, Principal & Sh. Inder Pal Singh, Vice-Principal (re-employed to give clarification regarding some allegations levelled against Sh.Inder Pal Singh by the HOS).

And whereas, Sh.Narad Rai, Principal, reiterated his stand as given in his representation dated 30.10.2013. Sh.Inder Pal Singh, Vice-Principal used to teach English in his insincerity and inability is the main reason for declined of result of the school.

And whereas, Sh.Inder Pal Singh, Vice-Principal denied all these charges submitting that the HOS is biased and he is being falsely implicated/targeted as he has raised his voice against the wrong practices of some other teachers in the school.

And whereas, three inspection reports were submitted by the DDE(North) in the meeting which was conducted 1) Smt. Manju Sharma, EO Zone-07 on 28.11.2013, 2) Sh. R.P.Tiruwa, Principal, SBV, Timarpur on 30.11.2013 and 3) Dr.Y.Marca, Pncipal, RPVV, Raj Niwas Marg & Ms.Urvashi Gupta, HOS, RPVV, Civil ILines on 05.12.2013. Smt.Manju Sharma, EO Zone-07 stated that there was hardly any improvement in the condition of the school from the last inspection held on 16.08.2013. On 28.11.2013 Principal Sh.Narad Rai was not present in the school though his presence was marked in the attendance register. Vice-Principal was also on half day leave. All the window panes of the school were found broken. There was no cleanliness at all. Mid Day Meal served at a very dingy placed in a very inappropriate manner. There is a clear sign of poor maintenance, indiscipline and truancy in the school. The reports of the other two inspections revealed almost the same picture.

And whereas, the repeated inspections of the school clearly points to the inability of Sh.Narad Rai, Principal & Sh.Inder Pal Singh, Vice-Principal to run the school properly. They have failed in all spheres despite previous warnings. They did not act to improve the overall conditions of the school. There is a clear indication of no co-ordination between Principal and Vice-Principal. Therefore, it is not feasible to allow both of them to continue further.

And whereas, their complacency is hurting the functioning of the school most and future of the students are at stake.

Therefore, the application of Sh.Inder Pal Singh, Vice-Principal, for extension of re-employment is hereby rejected with immediate effect.ö

5. It is contended by the applicant that copies of the inspection reports, and report of the Principal of the school, which were referred to by respondent no.2 in the impugned order, were never supplied to him. Therefore, the impugned order passed by respondent no.2 on the basis of such inspection reports, and allegations contained in the Principal's report, is arbitrary and illegal. It is also contended by the applicant that being the Vice-Principal of the school, he was in no way responsible for the lapses pointed out in the inspection reports. The Principal of the school, being biased against him, made false allegation that he was teaching English in Class XII, and he was responsible for the decline in the result of the school.

6. On the other hand, it is contended by the respondents that re-employment, or extension of the period of re-employment, is granted only on the basis of performance and physical fitness of the retired employee. No retired employee can claim re-employment, or extension of the period of re-employment, as a matter of right. It is also contended by the respondents that as the performances of the applicant were not satisfactory, the application made by him for extension of the period of re-employment was rightly rejected by respondent no.2. It is also contended by the respondents that re-employment of a retired employee is only upto 62 years of age. As

the applicant has already attained the age of 62 years, he is not entitled to the reliefs claimed by him in the O.A.

7. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in the contentions of the applicant.

8. From the speaking order, annexed to the Memo dated 21.1.2014 (Annexure P/1), whereby the applicant's representation for extension of the period of his re-employment from 1.1.2014 to 31.12.2014 was rejected by respondent no.2, it transpires that the applicant, and Shri Narad Rai, Principal of the School, were given opportunity to explain the allegations levelled against them, and the explanations given by them were duly taken into consideration by respondent no.2. In the speaking order, *ibid*, it was observed by respondent no.2 that there was no coordination between the Principal and the Vice-Principal of the School. After considering the circumstances appearing against the applicant as Vice-Principal, and Shri Narad Rai as Principal of the School, during the period of their re-employment, respondent no.2 found that their complacency was mostly hurting the functioning of the school, and, hence, the future of the students was at stake. Accordingly, respondent no.2 rejected the applicant's representation for extension of the period of his re-employment. In the above view of the matter, the decision of the Tribunal in *Sh.Rajpal Singh Vs. The Chief Secretary, GNCT of Delhi and others*, O.A.No.3119 of 2013, decided on 11.3.2014, and the order dated 30.4.2014 passed by the Regional Director

(North), Directorate of Education, Government of NCT of Delhi, which were relied on by Shri G.S.Chary, the learned counsel, do not come to the aid of the applicant in the present case.

9. It is also pertinent to mention here that Shri Narad Rai, who was re-employed as Principal of the school after his retirement, was also denied extension of the period of his re-employment. Being aggrieved thereby, he had filed OA No.716 of 2014. The Tribunal dismissed the said O.A., vide its order dated 21.1.2014, copy of which was produced before us by the learned counsel appearing for the respondents.

9. As per the policy letter dated 27.1.2012, the retired Vice-Principals and Principals are eligible for re-employment for a period of one year and extendable for another year based on their performance and subject to fitness and vigilance clearance, till they attain the age of 62 years, whichever is earlier. In the instant case, the respondents did not find the performance of the applicant satisfactory enough to give him extension for another year, in view of the contents of the inspection reports, and response by the applicant thereto.

11. In *Shashi Kohli Vs. Directorate of Education*, W.P. (C) No. 4330 of 2010, decided on 29.4.2011, the Honøble High Court of Delhi, after referring to the judgment passed by its Division Bench in *Prof. P.S.Verma Vs. Jamia Millia Islamia University & Others*, has held that re-employment is not a matter of right, and has observed as under:

öAt the cost of repetition, it may be stated that the petitioner has no right to re-employment. She only has a right to be considered and the school has a right to deny her re-employment, if, after considering her overall performance as a teacher, it finds that she is not fit for re-employment. For the reasons delineated above, I find myself one with Respondent No.2, and hold that the action taken by it in not granting re-employment to the petitioner suffers from no illegality.ö

12. In the light of what has been discussed above, we do not find any infirmity in the impugned decision taken by respondent no.2 rejecting the applicant's application for extension of the period of his re-employment from 1.1.2014 to 31.12.2014. Accordingly, the O.A., being devoid of merit, is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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