

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING:- GWALIOR

Original Application No.202/00934/2016

Gwalior, this Thursday, the 11th day of January, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Dr. Bhagwan Swaroop Sharma, S/o Late Shri Gulab Chand Sharma, Aged 68 years, Retd. P.G.T., R/o Pandit Gulab Market, "Sharma Empire", Madhagonj, Lashkar, Gwalior (M.P.)
-Applicant

(By Advocate –Shri O.P.Saxena)

V e r s u s

1. Union of India through Secretary, Ministry of Human Resources Development, Shastri Bhawan, New Delhi-110001
2. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jit Singh Margh, New Delhi-110016
3. Finance Officer, Kendriya Sangathan, 18 Institutional Area, Shaheed Jit Singh Margh, New Delhi-110016
4. Kendriya Vidyalaya Sangathan, Agra Region, Grand Parade Road, Agra Cantt. Agra (U.P.)
5. Director of Education, Directorate of Education Andman and Nicobar, Admin., Port Blair (Andaman) **- Respondents**

(By Advocate –Shri Rajneesh Sharma for respondents Nos. 2 to 4 & Shri Kaushlendra Singh Tomar for respondent No.5)

(Date of reserving the order:-09.01.2018)

O R D E R

By Ramesh Singh Thakur, JM

This Original Application has been filed by the applicant against the order dated 18.05.2016 (Annexure A-9), whereby the

respondents has intimated that they are not liable to sanction pensionary benefits to the applicant.

2. The applicant has prayed for the following reliefs in this Original Application:-

“8(A) His pensionary benefits be paid to him within a period of one month from the date of order of this Hon’ble Tribunal.

(B) Respondents be directed to pay interest @ 18% for delayed payment from the date the pensionary benefits were due to the date on which payment is actually made to the applicant.

(C) In view of the inordinate delay and policy of procrastination adopted by the respondents due to which the applicant has been unnecessarily dragged into litigation cost of Rs. Ten Thousand be awarded to him.”

3. Briefly the fact of the case are that the applicant was appointed on the post of T.G.T. (K.V.S.) in Meghahatuburu, District Sighbhum, Bihar now in Jharkhand where he worked from 01.08.1976 to 01.08.1977. Thereafter, he served the department as P.G.T. (Hindi) in K.V.S. No.3, Morar Cantt., Gwalior (M.P.). Thereafter the applicant on account of his selection as Principal in Andaman and Nicobar (A&N) Administration, Port Blair was relieved to report at Port Blair. A copy of this is annexed as Annexure A-1. Thereafter the respondent No. 4 wrote to Deputy Commissioner K.V.S. Regional Office, Bhopal with a copy to the applicant regarding pensionary benefits of the applicant.

4. The respondent No.3 wrote a letter dated 24.06.2015 to the applicant to provide pension papers duly attested by competent authority, a copy of which is annexed as Annexure A-2. It is submitted that the applicant submitted the duly filled necessary papers to the office of the respondent No.4, a copy of which is Annexure A-3.

5. The respondent No.4 wrote to respondent No.3 with a copy to the applicant regarding payment of the pensionary benefits to the applicant vide Annexure A-4. On 20.12.2015 the applicant requested to respondent No.3 for release of pensionary benefits in view of the letter dated 09.12.2015 of the respondent No.4, a copy of which is annexed as Annexure A/6.

6. The applicant through his counsel sent registered notices to respondents Nos. 2 to 4 for release of pensionary benefits of the applicant vide Annexure A-8 on 28.04.2016 and now vide Annexure A-9 dated 18.05.2016 the respondent No.4 intimated that the pensionary benefit are not liable to the applicant.

7. Respondent No.2 to 4 has filed the reply to the Original Application and they have raised the preliminary issues regarding the maintainability of the O.A. It has been specifically submitted that the applicant did not claim their retirement benefits for a long time i.e. for 24 years while relieving from KVS. Moreover, the

applicant has not disclosed that he has exercised any option to get counted his service to get terminal benefits as per Para 17 of the circular dated 08.04.1976 and Article 49 and 74 of KVS Education Code. It was further submitted that the employee deemed to have retired from Govt. Service on the date of absorption for eligibility of terminal benefits. The applicant has not submitted any documents whether he has completed his lien of two years in A&N Administration. It is further submitted that the date of completion of lien or the date of resignation in parent department, whichever is earlier, is treated as date of absorption. It has been specifically submitted that the fact remains that no correspondence was made either by the applicant or by A&N Administration regarding termination of lien and absorption of the applicant. It was specifically submitted that the applicant has not mentioned/maintained the period of qualified services rendered by him in A&N Administration and it is not clear whether he was absorbed permanently in A&N Administration as per norms. The applicant has also hidden the fact that he has left the A&N Administration and joined the Navodaya Vidyalaya Samiti (NVS). Further the applicant has also not mentioned the period of service i.e. length of service rendered in A&N Administration. Moreover, NVS is a non pensionable establishment, the applicant is well

known with this fact and knowingly that, he claim for which he is not entitled.

8. On merit, the respondents has submitted that the applicant was relieved on 31.08.1990 on grant of lien for two years to join the post of Principal in A&N Administration and as per K.V.S. Education Code Article 49 and 74 , if permanent employees of KVS are selected for appointment in any other Organization/ Institution/ Department, they may be permitted to retain lien on their permanent post in KVS for a period of two years or till they are permanently absorbed in that Organization/Institution /Department, whichever is earlier. They shall either revert to KVS within a period of two years or resign from the post in the KVS at the end of that period and they should also agree to pay pension contribution for the period of their service outside the KVS. Such undertaking with the above intent in form of Annexure-X must be submitted by the employee. The applicant has also not paid the pension contribution in KVS and further neither the applicant was reverted to KVS nor resigned from KVS. Thus it is clear that the applicant was not absorbed in A& N administration. Moreover, the applicant has not exercised the option either for counting his service or to get terminal benefits as per Para 17 of the Govt. of India, Department of Expenditure O.M.No. 26 (18)-EV(B)/75

08.04.1976. The same forms of retirement benefits should be furnished to the Audit Officer by the absorbed employee through his employer six months before the date on which the payment of retirement benefits is to commence to enable him to issue PPO/GPO. So the applicant claimed retirement benefits after 24 years of relieving from KVS without conveying the date of absorption which is beyond the comprehension. It was further submitted that the applicant was not retired from the KVS and he was merely relieved from KVS to join another Organization /Institution/Department. It is specifically submitted that the employee deemed to have retired from Govt. service on the date of absorption for eligibility but the applicant has not submitted any document with the present Original Application to demonstrate that whether he has completed his lien of two years in A& N administration or he was absorbed permanently on A&N Administration. So the respondents prayed for the dismissal of the O.A.

9. At this stage, during the argument the counsel for the applicant has submitted that the applicant is not claiming any relief from the respondent No.5 i.e. Director of Education, Directorate of Education, Andaman and Nicobar administration Portblair

(Andaman). The counsel for the applicant has also not filed any rejoinder to the reply filed by the respondents Nos. 2 to 4.

10. As per annexure A-1 dated 31.08.1990 the applicant has been relieved and it has been specifically mentioned that consequent upon the grant of the lien by the KVS for two year to Dr. B.S.Sharma (Applicant) PGT (Hindi) of this Vidyalaya on account of his selection as Principal in the A & N Administration Portblair. It was further intimated that he is relieved of his duties as PGT (Hindi) on the afternoon of 31st August, 1990 with the instruction to report to the A&N Administration Portblair. In the pleading there is no mention by the applicant in its Original Application that whether the applicant had joined as such as per Annexure A-1. The applicant only submitted in its application that he has been relieved from the KVS on 31.08.1990. We do not find any averments in the whole original application whether the applicant had joined under the A&N Administration and we are unable to find any averments in the whole Original Application whether he was ever absorbed under the A&N administration at Portblair.

11. As per Annexure A-3 the applicant has annexed a letter addressed to The Deputy Commissioner KVS Regional Officer Agra Region, Agra, whereby the applicant has indicated that he has

filed the service documents with an affidavit along with the documents but we do not find any documents attached with this letter Annexure A-3.

12. In reply to legal notice dated 28.04.2016 the respondents had intimated the applicant vide Annexure A-9 dated 18.05.2016 whereby it has been specifically mentioned that the applicant was appointed as PGT (Hindi) on 18.10.1983 and consequent upon the grant of lien by the KVS for two years, on his selection in the A&N station Portblair vide letter dated 26.04.1990 he was relieved by KVS vide order dated 31.08.1990 to join A&N administration Portblair. It has been specifically mentioned that his resignation was accepted on technical ground with lien of two years by the KVS and as per norms prescribed for the purpose when an employee is relieved on technical resignation from a Govt. Department to another Govt. Department the pensionary benefits is to be sanctioned by his parent department, for where he was relieved on technical resignation. However, the terminal dues may be asked by present Department from previous department on Pro-rata basis.

13. So it is clear vide Annexure A-1 that the applicant was relieved to join at A&N administration on 31.08.1990 with a lien with the KVS for two years. But it is not clear from the Original

Application that whether he had ever joined in the A&N administration at Portblair and the applicant had not placed any documents regarding his absorption or joining as per Annexure A-1. Moreover, as per reply of the respondents the applicant had joined NVS but regarding that the applicant had not filed any rejoinder to rebut the reply filed by the respondents. Moreover, the applicant is claiming the pensionary benefits after 24 years without explaining and making any averments regarding delay to the fact that why the applicant had remained mum for such a long period.

14. In view of the above discussions, we are of the view that the Original Application is devoid of any merit and we do not find any illegality in the annexure A-9 communicated by the respondents. Resultantly the O.A. is dismissed being devoid of any merit. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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