

**Central Administrative Tribunal
Principal Bench**

OA No.3775/2014

New Delhi, this the 9th day of October, 2019

**Hon'ble Justice Mr. L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mrs. Krishna Devi
W/o Shri Krishan Lal
Age 63 years
R/o 23, Begum Pur Park
Opposite Malviya Nagar
New Delhi-110017.

...Applicant

(By Advocate: Shri Ankush Yadav for Ms. Simpy
Sharma)

Vs.

1. The State (Govt. NCTof Delhi)
Through its Secretary(Education)
Old Secretariat
Delhi.
2. Lt. Governor, NCT of Delhi
Raj Nivas, Rajpur Road
Delhi.
3. The Director of Education
NCT of Delhi
Old Secretariat, Delhi.

...Respondents

(By Advocate: Shri K.M. Singh)

ORDER (ORAL)**Justice L. Narasimha Reddy:-**

The applicant retired as Vice Principal of a Government School in Delhi on 31.10.2010. At that time, there was a Scheme for Re-employment of the Primary Teachers(PRT), Trained Graduate Teachers(TGTs) and Post Graduate Teachers(PGTs) after retirement for a period not exceeding two years. The applicant and two others filed Writ Petition No.6810/2010 in the form of a Public Interest Litigation seeking the relief of re-employment for Principals and Vice Principals. The Writ Petition was withdrawn and thereafter the applicant filed Writ Petition No.7792/2010. In compliance with the directions issued therein, the applicant was re-employed on 12.03.2012. That assignment ended on 24.10.2012, on which date, the applicant attained the age of 62 years.

2. This OA is filed with a prayer to direct the respondents to pay the salary to the applicant, for the period between 01.11.2010 and 11.03.2012. The

applicant contends that the respondents were under obligation to re-employ her immediately on retirement and since there was lapse on their part, she is entitled to be paid the wages for that period.

3. The respondents filed a counter affidavit opposing the OA. It is stated that the Scheme that was in vogue at the relevant point of time, provided for re-employment of PRTs, TGTs and PGTs, but there was no such scheme for re-employment of Principals and Vice Principals. It is stated that the applicant has no right to insist on payment of wages for the period, during which she did not work at all.

4. We heard Shri Ankush Yadav for Ms. Simpy Sharma, learned counsel for the applicant and Shri K.M. Singh, learned counsel for the respondents.

5. As observed earlier, the applicant retired from service on 31.10.2010, on attaining the age of superannuation. She was re-employed w.e.f. 12.03.2012 and retired in that capacity also on 24.10.2012.

6. Even where the facility of re-employment exists, it is not a matter of course. Much would depend upon the need in the organization and eligibility or fitness of the individual, not to speak of availability of funds. Added to that, the Scheme, that was in existence, at the relevant point of time was only for re-employment of PRTs, TGTs and PGTs. The efforts, made by the applicant, claiming such facility for the Principals and Vice Principals, did not fructify and the writ petition was withdrawn. It is only in the year 2012 that a direction was issued by the Hon'ble High Court to re-employ the applicant as Vice Principal. That having been done, the applicant retired shortly after the re-engagement on 24.10.2012. Once an employee is retired from service, the relationship of the master and servant comes to an end. A retired employee does not have any fundamental right to be re-employed. It is only parity that can be drawn in matters of this nature. Once there does not exist any right to be re-employed, the question of salary being paid for a period during which the applicant was not on re-employment, does not arise.

7. Further, the relief in this behalf could have been, if at all, in the Writ Petition No.7792/2010. It is barred by the principle of *constructive res judicata*.

8. The OA is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/