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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.242 OF 2003

New Delhi, this the 18th day of August, 2003
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Sunil Kumar
S/o Shri Bishan Singh
R/o H.No.148, Village Tilangpur Kotla,
Delhi-43.

....Applicant
(By Advocate : Shri K.K. Singh)

Versus

1. Govt. of NCT of Delhi
Through it's Chief Secretary,
Players Building,
I.P. Estate,
New Delhi.
2. Director of Education
Dept. of Education,
Govt. of NCT of Delhi,
Old Sectt.,
Delhi.
3. Deputy Director of Education,
R.P.V.V.
Old Secretariat,
Delhi-54.
4. Principal
Rajkiya Pratibha Vikas Vidyalaya
Sector-XI, Rohini,
Delhi.

....Respondents
(By Advocate : Mrs. Avnish Ahlawat with Shri Mohit
Madan)

ORDER (ORAL)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed with a request to quash and set aside order dated 9.1.2003 by which the representation of the applicant in pursuance of the orders of this Tribunal dated 15.11.2002 in OA 2977/2002 was rejected. The applicant is also aggrieved by order dated 28.10.2002 regarding disengagement of part-time workers engaged after the imposition of the ban by the Finance Department dated 21.10.1989. The applicant has also

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requested that respondents be directed to re-appoint the applicant in the post of part-time Sweeper in the School.

2. It is stated by the applicant that he was appointed as part-time Sweeper in the school of respondent No.4 as per order dated 5.1.2001 (Annexure A4) on a consolidated salary of Rs.1350/- per month. The claim of the applicant is that his appointment is against sanctioned part-time post as per orders of sanction dated 29.3.2000 and 5.1.2001. The claim of the applicant is also that he was selected as per Recruitment Rules against the sanctioned post. Therefore, disengagement of the applicant was unlawful. The learned counsel of the applicant also invited attention to the order dated 3.4.2003 in OA 29940/2002 in the case of Ram Sunder Yadav and others Vs. Govt. of NCT of Delhi and Others wherein this Tribunal held that the engagement of the applicants can continue upto financial year 2002-03. It was also ordered that in case the posts are still sanctioned and the funds are also available for the next financial year, the applicants will have a preference for appointment over freshers and juniors.

3. The respondents opposed the application. It is stated by the respondents that on 31.12.1991, a circular was issued by the then Director Education bringing to the notice to all concerned that part-time employees against group 'D' post should not be appointed. The respondents have, however, stated that

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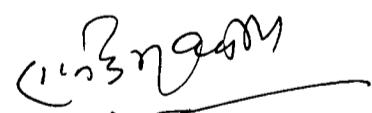
there were some sanctioned part-time posts of group 'D' employees. Most of the part-time employees engaged were seasonal workers. Certain public interest petitions were filed in the Hon'ble High Court of Delhi in which it was alleged that there was no proper cleanliness in the schools. Accordingly, in terms of the directions of the Hon'ble High Court of Delhi, a decision was taken on 21.8.2000 to provide security and sanitation services in the school through private agency. A ban was also imposed by order dated 21.10.1998 on recruitment of part-time class IV employees. In spite of that the applicant was appointed. Therefore, the appointment of the applicant was against the instructions. The learned counsel of the respondents stated that some part-time appointments were made before the imposition of ban and it was only in respect of those persons that sanction of the Lt. Governor for the continuation of those posts was issued as per order dated 21.11.2002 (Annexure A-6). The applicant's case was not covered by this sanction. It was, therefore, urged by the learned counsel of the respondents that reliefs claimed by the applicant were not justified. The decision as per order dated 3.4.2003 in OA 2940/2002 in the case of Ram Sunder Yadav was not applicable on the facts of this case.

4. The arguments of learned counsel of the parties have been heard and materials available on record have been perused carefully.

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5. The appointment of the applicant was in violation of ban imposed as per order dated 21.10.1998. The letter of appointment also indicated that this appointment did not give any right of claim for regular appointment and the appointment letter could be cancelled at any time without giving any reasons. The only benefit which the applicant gets out of this service rendered in pursuance of appointment letter dated 5.1.2001 (Annexure A-4) is that he may be given relaxation of age limit for the period spent by him in the service of the respondents, if there was any regular recruitment. He could also be given preference over freshers, if his work and conduct was to the satisfaction of the respondents. Except these two benefits, no further benefits in favour of the applicant accrues. So far as the reliefs claimed by the applicant are concerned, the same are not admissible to him inasmuch as the order of initial appointment was in violation of the ban on recruitment. There was also no sanction for the post and the funds for continuation in the employment. Therefore, the reliefs claimed cannot be allowed and this OA is dismissed without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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