

(2018) 01 CAT CK 0022

In the Central Administrative Tribunal

Case No : Original Application No. 1554 Of 2014

Daryao Singh Sain

APPELLANT

Vs

Chief Secretary And Others

RESPONDENT

Date of Decision : 31-01-2018

Acts Referred:

Citation : (2018) 01 CAT CK 0022

Hon'ble Judges : V. Ajay Kumar, Member (J); Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : Kartar Singh, Vijay Kumar Pandita

Final Decision : Dismissed

Judgement

V. Ajay Kumar, Member (J)

1. The applicant, a Vice Principal, under the respondent-Government of NCT of Delhi, retired from service on 30.04.2012 on attaining the age of superannuation. In pursuance of Govt. of NCTD's policy, and on application made by the applicant, he was re-employed vide Annexure A-8 order dated 10.05.2012 for a period of one year. Again on 20.04.2013, the applicant applied for a further tenure of reemployment through proper channel but the respondents re-employed the applicant vide Annexure A-10 order dated 02.12.2013 for another period of one year.

2. The applicant submits that as per the policy of the Government, the applicant is entitled for re-employment for a period of 2 years and that though the applicant was fully qualified and eligible for re-employment immediately after expiry of 1st year of re-employment, i.e., from 01.05.2013 onwards, but the respondents illegally and with mala fide intention delayed the re-employment for a second one year period and as a result, the applicant was re-employed for the second tenure from 03.12.2013. Hence, it is submitted that applicant is entitled for salary with effect from 01.05.2013 to 02.12.2013 also but the said request of the applicant was rejected by the respondents vide impugned Memorandum

dated 01.03.2014.

3. Heard Shri Kartar Singh, learned counsel for the applicant and Shri Vijay Kumar Pandita, learned counsel for the respondents and perused the pleadings on record.

4. Firstly, admittedly, as per the policy of the Government, a retired teacher is entitled for re-employment for a maximum period of 2 years and that the applicant was, in fact, re-employed for the 1st tenure from 10.05.2012 for a period of one year and again from 03.12.2013 to another period of one year and thereby he was employed for a total period of 2 years which is the maximum period as per the policy of the Government.

5. Secondly, the applicant did not work for the period from 01.05.2013 to 02.12.2013. The submission of the applicant that, in fact, he attended the school during the interregnum period is unacceptable as the same was not authorized or supported by any orders of the respondents. It is not known how the applicant allegedly attended the school when his first term was completed on 30.04.2013 and the second term started on 03.12.2013.

6. The respondents submit that the reemployment of a retired teacher is subject to Vigilance Clearance and since a complaint was received against the applicant from the students and the case of the applicant was pending for the Vigilance Clearance, his reemployment for the second time could not be made immediately on the expiry of his first term. As soon as clearance was received from the vigilance, he was given the re-employment for the second time. Hence, it is submitted that there is no negligence or intentional delay or any mala fide intention in re-employing the applicant. It is further submitted that the applicant after accepting the terms and conditions of reemployment only joined and worked as such and hence now he cannot raise any claim for salary for the period in which he had not worked.

7. It has been held by this Tribunal and by the Hon'ble High Court of Delhi in various decisions that the reemployment of a retired teacher under the policy of the respondent-Government is not a right of any retired teacher but the same is subject to the terms and conditions of the said scheme. We find force in the submissions made by the respondents and we do not see any illegality in their action.

8. Various decisions on which the applicant placed reliance have no application to the facts of the present case since the facts were different and distinct.

9. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.