

(2018) 11 DEL CK 0121

In the Delhi High Court

Case No : Civil Writ Petition No.3634, 5456 Of 2018 with Civil Miscellaneous Appl.14392 Of 2018

R S Misra

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 13-11-2018

Acts Referred:

Citation : (2018) 11 DEL CK 0121

Hon'ble Judges : Vipin Sanghi, J;A. K. Chawla, J

Bench : Division Bench

Advocate : Sweena Nair, S.Rajappa

Final Decision : Dismissed

Judgement

A.K. CHAWLA, J.

By WP(C) No.3634/2018, the petitioner seeks quashing of the order dated 16.07.2012 passed by the Central Administrative Tribunal (CAT), Principal

Bench, New Delhi whereby the OA No. 2301/2012 filed by him was dismissed.

2. The OA preferred by the petitioner came to be dismissed at the admission stage itself for the reliefs prayed in the OA, as under:

i) To direct independent inquiry in terms of CIC letters/decision dt.07.1.2009, 20.01.2009, 19.05.2009, 29.05.2009 and 26.08.2011.

ii) to direct the respondents to revoke termination order with all consequential and retiral benefits in terms of their letter dated 24.06.2010 for recovery

of three month salary paid in lieu of notice period because of fresh cause of action of withdrawal of fresh order and also letter dated 19.07.2010 and

06.08.2010 for deprivation from reasonable opportunities and clear cut violation of natural justice till final adjudication of case in Supreme Court dated

12.03.2010.

iii) to direct the respondents to release all the retiral benefits with consequential benefits in terms of termination order received on 01.02.2006

admittedly;

iv) pass such other further orders which Tribunal may deem fit and proper in the facts and circumstances of the case.

The foregoing prayers by themselves speak of the petitioner having been terminated from service on the basis of a departmental enquiry conducted

against him. Here, to cut short the large conspectus of facts, a little advertence to the chequered history, we consider, would suffice. From the history

of the case, it emerges that the petitioner joined Kendriya Vidyalaya, Agra as TGT (Science) in July, 1972 and was later, recruited as PGT (Chem.)

with Kendriya Vidyalaya, Itanagar, Arunachal Pradesh, in July, 1976. On 11.02.1988, his services came to be terminated on the allegation that he was

guilty of misconduct involving moral turpitude. His termination was originally quashed by this court in WP 3354/1989 on 19.09.1994 with consequential

directions, leaving it open to the respondents to proceed against him afresh as per the rules of the Education Code. LPA preferred thereagainst by the

respondents was dismissed vide order dated 04.07.2000. As a consequence, the petitioner got re-instated vide order dated 03.10.2000. But

consequential benefits were not to be given to him. Thereafter, the petitioner being aggrieved with the non-compliance of the order passed by High

Court dated 19.09.1994, preferred contempt petition no. 550 of 2000 against the Commissioner of the Vidyalaya which came to be disposed of on

25.02.2001, with a direction for the compliance, with liberty to file fresh petition, if not complied with. Due to non-compliance by the respondents, the

petitioner again filed another contempt petition No. 151 of 2001. During the pendency of the said petition, fresh complaints by girls came to be made

and a show cause notice dated 11.03.2002 came to be issued to the petitioner seeking explanation as to why disciplinary action under the provisions of

Article 81(b) of the Education Code be not initiated. The contempt petition, in the meanwhile, came to be disposed of on 23.09.2002, with a direction to

the respondents for considering the petitioners consequential benefits, and liberty was granted to the petitioner to challenge the order of respondents, if

not satisfied with it. As regards the show cause notice dated 11.03.2002, a

regular departmental enquiry was conducted, which culminated in his termination under Article 81(b) of the Education Code of KVS on 05.11.2003. This termination of services was challenged by the petitioner by way of OA No.2008/03, which came to be disposed of on 15.12.2005 with a direction to the respondents to consider the representation of the petitioner and also his forthcoming superannuation while passing an order afresh under Article 81(b) of the Code *ibid*, and that it should be done before the date of superannuation of the petitioner. The actual date of superannuation of the petitioner was 31.01.2006. On this, another order dated 20/24.01.2006 of termination of the services of the petitioner with immediate effect, came to be passed. Against this termination order dated 20/24.01.2006, the petitioner availed his remedy by way of appeal, which came to be dismissed by the appellate authority on 18/21.04.2006. On this, petitioner preferred OA No.996/2006 before CAT, which came to be dismissed on 24.07.2007. Review sought thereof by way of RA 208/2007 was dismissed by CAT on 19.02.2008. Thereafter, the petitioner preferred WP 3902/2008 which was dismissed by this court on 10.07.2009. Review sought thereof by way of Rev.Petition 407/2009 was also dismissed by this court on 23.10.2009. The petitioner preferred Special Leave to Appeal before the Supreme Court against both the orders dated 10.07.2009 and 23.10.2009 passed by this court. This special leave to appeal came to be dismissed on 12.03.2010. Thereafter, having exhausted all the remedies available to him under law-including filing of a Revision Appeal before the HRD Minister and Chairman, KVS, the petitioner filed another OA No.2301/2012 with the reliefs as are enumerated in para 2 above, which has come to be dismissed *vide* the impugned order.

3. By the impugned order, CAT dismissed the subject OA observing as under:

Thus, according to us, the present OA is wholly misconceived and amounts to abuse of process of law and barred by the principle of *res judicata*.

Accordingly, the OA is required to be dismissed at admission stage. However, the relief sought for by the applicant in paragraph 8(i) of the OA that the

direction may be given to direct independent inquiry in terms of letter/decision received by the applicant under Right to Information Act, 2005 is

outside the scope of this Tribunal cannot be treated as service matter. However, in the garb of these letters, what the applicant wants us to hold is that

the order of termination may be revoked, as out of 55 witnesses none has deposed against the applicant to the effect that he indulged in immoral acts, as such the order of termination is bad, which course, as already stated above, is not permissible to us in view of the fact that the order of termination has attained finality and has been given a quietus by the Apex Court.

We do not see any infirmity or perversity in the impugned order. The termination order having attained finality, the prayers made by the petitioner in

the OA are nothing else but a colourable exercise founded on extraneous reasons, which is unknown to law. In view thereof, we equally do not find

any merit in WP(C) 5456/2018 in which the petitioner extends challenge to the impugned orders dated 15.09.2017 passed by CAT in OA 3152/17

refusing to issue any directions as regards the entries in the ACRs of the petitioner during the years 2001-2002, which, in our considered view, has

become infructuous in the given facts and circumstances of the case.

4. For the forgoing reasons, we do not find any merit in any of the petitions and the same are dismissed. No order as to costs.