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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3536/2019

RAMESH CHAND

..... Petitioner

Through: Mr. U. Srivastava, Advocate.

versus

GOVT. OF NCT DELHI AND ORS.

..... Respondents

Through: Ms. Avnish Ahlawat & Mr. N.K. Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

25.04.2019

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Issue notice. Ms. Ahlawat accepts notice.

The petitioner has assailed the order dated 30.08.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.1449/2015. The Tribunal has rejected the said Original Application preferred by the petitioner.

The first grievance of learned counsel for the petitioner is that the Tribunal did not allow the petitioner to advance his submissions. He submits that the impugned order also does not record submissions of the petitioner as well as the reasons for rejection of the said Original Application.

A perusal of the impugned order does show that the petitioner's submissions have not been noted and dealt with in the impugned order. The

impugned order is running into two pages, and has heavily relied upon the order passed by the respondents in terms of the earlier order of the Tribunal passed in O.A. No.1620/2014 on 15.01.2015.

Before dealing with the matter, we would like to emphasize that the Tribunal being the original forum should hear the submissions of the counsels and deal with them in its order. Even where it does not find merit in a particular case, the Tribunal is obliged to undertake the aforesaid exercise since its orders are amenable to judicial review by this Court as well as by the Supreme Court.

We may turn to the merit of the petitioner's claim since we have heard the submissions of the learned counsels on merits as well.

The case of the petitioner was that the petitioner – who superannuated as TGT (Maths), was entitled to automatic re-employment till attainment of age of 62 years in terms of notification dated 29.01.2007. The submission of the petitioner is that the only aspects which need consideration are the physical fitness and vigilance clearance, and on these two parameters, the petitioner had cleared the screening. The submission is that the respondents have not allowed the petitioner's request for automatic re-employment on other considerations such as his performance – which is not one of the parameters to be taken into consideration.

We find no merit in this submission of the petitioner. While assessing the fitness of a teacher – who seeks automatic re-employment, it is obvious that the performance of the concerned teacher as reflected in service record of the said teacher would have to be taken into consideration. It is not that each & every teacher, as a matter of right, can seek re-employment upon superannuation. It is only those teachers who would be useful in imparting

education to the students would deserve to be re-employed. In the case of the petitioner, the order dated 12.03.2015 shows that his service record shows that he was found sleeping/ resting regularly in class rooms most of the time. He had been issued memorandum repeatedly to take proper teaching classes but to no avail. He started locking the class rooms from inside when he was repeatedly caught sleeping in class and he was reprimanded for such conduct as well. His performance was found to be poor and he was even issued show-cause notice on 22.09.2012 for his decrease of pass percentage from 100 to 44 percent in Summative Assessments Exam (2011-12) of Class-X. The reasoned order also records that whenever the petitioner was asked to improve his performance, he sought to put the blame on the students and their parents. There are other reasons recorded in the said order.

In these circumstances, we find absolutely no merit in the petitioner's claim for automatic re-employment. We may also refer to the decision of this Court in W.P. (C) Nos. 822/2014 and 756/2014 decided on 17.09.2014.

Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 25, 2019

B.S. Rohella