

\$~18(2021) (23.08.2021)

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

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Date of Decision: 23.08.2021

+ **W.P.(C) 8715/2021 & CM Nos.27154-55/2021**

C D SHARMA

..... Petitioner

Through : Mr. Vishal Bhatnagar, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION (CBSE) &
ANR. Respondents

Through : Ms. Seema Dolo, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Court hearing convened *via* video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J. (ORAL):

CM Nos. 27154-55/2021

1. Allowed, subject to just exceptions.

W.P. (C) 8715/2021

2. This writ petition is directed against the order dated 03.01.2020, passed by the Central Administrative Tribunal (in short 'the Tribunal'), in MA No. 26/2020 [for condonation of delay] and MA No. 27/2020 [for review/restoration] filed in O.A.No.2591/2015.

2.1. In order to dispose of the above-captioned matter, the following dates and events need to be noted.

i. The petitioner had filed O.A.No.2591/2015 with the Tribunal seeking the following reliefs.

- “(a) Direct the respondent no.1 CBSE to order releasing of Rs. 1,37,504/- and Rs. 70,061/- as pending due for reimbursement along with interest @ rate of 18 per centum per annum;
(b) Direct the respondent no.1 CBSE release pension and other retirement benefits to the Petitioner as legally he is deemed to have been absorbed in the service of respondent.!.
(c) Directing CBSE for monetary compensation to the applicant for the mental agony and pain suffered in old age due to harassment despite acknowledgement of dues payable to the Applicant by Hon'ble High Court of Delhi;
(d) Direct the Respondents to produce all the records of the case along with their reply for perusal by this Hon'ble Tribunal which is within powers of tribunal as per section 22(3) of the Administrative Tribunals Act, 1985
(e) Pass such other orders or reliefs as deemed fit and proper in the facts and circumstances of the case in the favour of the applicant and against the respondent.
(f) Award the cost of the present petition ...”

- ii. The said O.A. was dismissed, in default, by the Tribunal on 12.12.2018. Thereafter, the petitioner filed an application for recall of the order dated 12.12.2018 and restoration of the OA, along with an application for condonation of delay. However, on 26.07.2019, the MA for recall of order dated 12.12.2018/restoration was withdrawn.
- iii. The petitioner, thereafter, filed a fresh application for review of order dated 26.07.2019, along with an application seeking condonation of delay as also an application seeking amendment of the O.A. It appears, via the amendment application, apart from anything else, the error concerning the description of respondent no. 2 was sought to be corrected. In the O.A., the petitioner had arrayed Directorate of Disaster Management, Port Blair as respondent no. 2 whereas; it should have been described respondent no.2 as Andaman & Nicobar Administration.
- iv. Importantly, since the petitioner was not absorbed by the CBSE, he

was repatriated to his parent organisation i.e. Andaman and Nicobar Administration with effect from 01.11.1997. Thus, the claim for pension, in any event, would not have laid against respondent no.1/CBSE.

v. Insofar as respondent no.1/CBSE is concerned, the purported claims lodged against it are best captured in respondent no. 1's/CBSE's letter dated 11.09.2013 addressed to the petitioner. These claims, apparently, have been lodged by the petitioner, under the following heads, for the period he was on deputation with the CBSE: -

a) Claim of Rs. 35,392/- towards LTC.

b) Claim of Rs. 70,061/- towards transportation of personal effects.

c) Medical claims of Rs. 25,535/- & Rs. 1,476/-.

d) Reimbursement of Rs. 5040/- recovered against HRA.

3. The fact remains that the Tribunal did not deal with the merits of the matter. In other words, as to whether or not, the claims lodged by the petitioner, with the CBSE were viable, was an aspect which was not dealt with by the Tribunal.

3.1. Ms. Seema Dolo, who appears on behalf of the CBSE, cannot but accept this position.

4. That the matter ought to have been dealt with on merits, becomes clear upon perusal of respondent no.1's/CBSE's communication dated 11.09.2013 addressed to the petitioner. A plain reading of the said communication would show that, even according to respondent no.1/CBSE, if not all, at least certain dues were not paid to the petitioner only because, according to it, relevant documentary evidence/approval was not submitted/obtained by

the petitioner. Whether this was correct or not, is something, that the Tribunal needed to enquire. The need for enquiry is evident as the record does show that parties entered into further correspondence after issuance of letter dated 11.09.2013.

4.2. To our minds, the Tribunal would have to examine the stand of the parties, and thereafter, reach a definitive conclusion, as to whether or not the petitioner needs to be given any relief in the matter.

5. Given the aforesaid position, the writ petition is disposed of with the following directions: -

5.1. The impugned order dated 03.01.2020 is set aside. The Tribunal will decide O.A. No. 2591/2015 on merits. The Tribunal will also examine the viability of petitioner's unnumbered application for amendment, after giving due opportunity to the respondents.

5.2. To hasten the process, the parties and/or their counsel will appear before the concerned Registrar of the Tribunal, on 29.09.2021.

6. Needless to add, nothing stated hereinabove will impact the merits of the case.

7. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 23, 2021/aj

Click here to check corrigendum, if any