

\$~34 (2021)

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

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Decided on: 27.09.2021

+ **W.P.(C) 10944/2021 & CM No. 33738/2021**

USHA RANI

..... Petitioner

Through: Mr. Varun Mudgil, Mr. Rakesh
Kumar & Mr. Harsh Sharma, Advs.

versus

GNCT OF DELHI & ORS.

..... Respondents

Through: Mrs Avnish Ahlawat Standing
Counsel with Mrs Tania Ahlawat &
Ms Palak Rohmetra, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Physical Hearing]

RAJIV SHAKDHER, J.(ORAL)

1. This writ petition is directed against the order dated 21.08.2020 and 26.10.2020, passed by the Central Administrative Tribunal (in short, "the Tribunal") in OA No.1113/2020 and in RA No.70/2020, filed in OA No.1113/2020, respectively.

2. This matter seems to have chequered history.

2.1. The petitioner, in effect, had approached the Tribunal for the first time, to seek implementation of the notification dated 24.09.2013, issued by General Administration Department, Govt. Of NCT of Delhi, which,

according to the petitioner, *inter alia*, provided the benefit of re-employment up to 65 years of age, *albeit*, as part-time vocational teacher.

2.2. Furthermore, we are told that, the petitioner also sought post-retirement pensionary benefit, based on the very same notification, which is dated 29.04.2013.

2.3. The record shows that, the petitioner withdrew the aforementioned action i.e., OA No.1113/2020, at the hearing held before the Tribunal, on 21.08.2020. At that stage, the petitioner, apparently, did not ask for liberty to file an original application, with better particulars.

2.4. Thereafter, the petitioner, instead of approaching the Tribunal, approached this Court by way of writ petition i.e., W.P.(C.) No.5930/2020.

2.5. When the aforesaid aspect was brought to the notice of the learned single judge, counsel for the petitioner sought leave to withdraw the aforementioned petition with liberty to file a review petition before the Tribunal, against the order dated 21.08.2020.

2.6. Consequently, the learned single judge, on 02.09.2020, dismissed the writ petition as withdrawn, with liberty, as noticed above.

2.7. The petitioner, as indicated in the hearing held before this Court on 02.09.2020, filed a review application with the Tribunal, in the aforementioned OA. The said review application was numbered as RA No.70/2020. Unfortunately for the petitioner, the Tribunal, dismissed the review application, vide order dated 26.10.2020.

2.8. Resultantly, the petitioner has been left, practically, without a remedy.

2.9. It is in these circumstances that, the petitioner has approached this Court, by way of the instant writ petition.

3. Mrs. Avnish Ahlawat, who appears on advance notice on behalf of the respondents, cannot but accept that, the matter needs to be decided on merits.

4. Given the foregoing, the impugned order dated 21.08.2020, passed in OA No.1113/2020, as also the order dated 26.10.2020, passed in RA No.70/2020, preferred in OA No.1113/2020, are set aside.

4.1. The matter is remanded to the Tribunal, for adjudication on merits.

5. The above-captioned writ petition is disposed of in the aforesaid terms. Consequently, pending application shall also stand closed.

6. At this stage, counsel for the petitioner says that, since notification dated 24.09.2013 stands withdrawn, the petitioner may have to amend her original application i.e., OA No.1113/2020. Leave, in that behalf, is granted. In case, the petitioner was to move an application for amendment of the OA, the Tribunal would allow the same, and, then, take the requisite next steps in the matter.

7. The case papers shall stand consigned to the record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

SEPTEMBER 27, 2021/nk

Click here to check corrigendum, if any