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

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Date of decision: 11.03.2022

+ **W.P.(C) 2880/2020**

DIBBAN LAL SHARMA

..... Petitioner

Through: Mr Kapil Kishore Kaushik, Advocate

Versus

GOVT. OF NCT OF DELHI & ORS.

... Respondents

Through: Ms Vibha Mahajan Seth, Advocate

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE JASMEET SINGH

[Physical Hearing/ Hybrid Hearing (As per request)]

RAJIV SHAKDHER, J. (ORAL):-

1. This is a writ petition directed against the order dated 06.01.2020, passed by the Central Administrative Tribunal [in short “the Tribunal”] in O.A. No. 3663/2019.

2. This was the second round of litigation for the petitioner before the Tribunal.

2.1. In the first round, by the time the petitioner’s O.A. was taken up for final hearing by the Tribunal the two year period accorded for re-employment (albeit after superannuation) had already elapsed. To be noted, the petitioner superannuated at the age of 60 on 30.06.2016. That O.A. was registered as O.A. No. 846/2017, and was disposed of *via* order dated 22.05.2019. At that point in time, the petitioner had indicated to the Tribunal that although he was not looking for re-employment since the two



year period for which he could be re-employed was over, he was desirous of claiming emoluments for that period having been wrongly denied the opportunity of re-employment.

2.2. The Tribunal, thus, directed the respondents to consider the case of the petitioner; whereupon the respondents passed a detailed order dated 04.11.2019. The net result of this exercise was that the petitioner's representation was found devoid of merit, and, hence, rejected by the respondents.

3. A perusal of the said order i.e., order dated 04.11.2019 shows that the following factors formed the basis of the conclusion that the respondents reached :

3.1. First, that in the relevant period i.e., 2015-2016, the petitioner's professional performance was found unsatisfactory. According to the respondents, there was a decline in the result of students who took the Class 12th examination by 23.25 percent in the school, helmed by the petitioner.

3.2. Second, there was no vested right of re-employment. In other words, the petitioner did not have an automatic right of re-employment, after reaching the age of superannuation in the usual and normal course.

3.3. Third, although the petitioner's case for re-employment was recommended by Deputy Directorate of Education Zone [in short "DDE Zone"], it was upended by the Regional Director [East] *via* order dated 23.08.2016, based on the fact that the petitioner's performance in 2015-2016, as noticed above, was not up to the mark.

3.4. Although the first and third aspect say the same thing, it shows, there was deliberation on the suitability and/or utility of the petitioner, at the relevant point in time.



4. It is the conclusion reached by the respondents in the order dated 04.11.2019, which was assailed before the Tribunal.

4.1. *Via* the order dated 06.01.2020 [i.e., the order impugned in the instant writ petition], the Tribunal has sustained the action of the respondents.

5. Having examined the record, it is quite clear that no relief can be granted to the petitioner.

5.1. As noticed above, the petitioner superannuated at the age of 60 on 30.06.2016. He approached the Tribunal, in the first instance, only in 2017, as noticed above, *via* O.A. No.846/2017. The said O.A. was disposed of by the Tribunal on 22.05.2019.

5.2. On that date i.e., 22.05.2019, when the O.A. was disposed of, the petitioner was well beyond 62 years. Therefore, there was no question of re-employment. The petitioner, having realised that re-employment was not possible, sought consideration of his claim for payment of consequential benefits, which would have flowed to him had he been re-employed.

5.3. It is in this context that the respondents were asked to consider the petitioner's claim. The respondents have, as noticed above, *via* order dated 04.11.2019, considered the petitioner's claim. The Tribunal having noticed the said order, declined to interfere with the order passed by the respondents.

5.4. In our view, no error can be found in the impugned order passed by the Tribunal. The suitability and/or utility of the petitioner having been assessed by the respondents, for the relevant period, we would be slow to intercede in the matter. There being no right to an automatic re-employment, we find no irregularity in the respondents' exercise of its jurisdiction. The decision taken not to re-engage the petitioner appears to have undergone a process of deliberation. The logical sequitur of this would be that the



petitioner would not be entitled to any emoluments for the period, he hoped to be re-employed.

6. Although, there is a photocopy of a document appended on page 122 of the case file, which purports to be a document that has been generated by Regional Director of Education (South), this document bears no signatures, and therefore, the recommendation therein for re-employment cannot be considered in the teeth of the order dated 23.08.2016 passed by Regional Director of Education (East).

7. We are, therefore, not inclined to interfere with the order of the Tribunal dated 06.01.2020.

8. Before we conclude, we may note that the petitioner has also sought a general relief that a transparent policy ought to be framed for re-employment of teachers. We may note that this relief was not sought by the petitioner before the Tribunal.

8.1. Thus, while not wanting to issue any direction in this behalf, the respondents could examine this aspect at their end, as it would enure to the benefit of those who seek re-employment.

9. The writ petition is, accordingly, dismissed.

RAJIV SHAKDHER, J

JASMEET SINGH, J

MARCH 11, 2022/sr

Click here to check corrigendum, if any