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

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**Date of decision: 18.01.2022**

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**W.P.(C) 13239/2021 & CM No.41788/2021****KASHI RAM YADAV**

..... Petitioner

Through Mr R.K. Sonkiya, Adv.

versus

**THE COMMISSIONER, KENDRIYA VIDHYALAYA  
SANGTHAN & ORS.**

..... Respondents

Through Mr R. Rajappa Sr. St. Counsel with  
Mr R. Gowrishankar, Advocate**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):-**

1. This writ petition is directed against the order dated 27.09.2021, passed by the Central Administrative Tribunal [in short, “the Tribunal”] in OA No.2125/2021.
2. The brief facts of the case which are required to be noticed are as follows:
  - 2.1. The petitioner was offered appointment to the post of Senior Secretariat Assistant [SSA] in the Kendriya Vidyalaya Sangathan, Ooty, *via* letter dated 20.01.2020. The petitioner was informed that he had to join his post on or before 10.02.2020.
  - 2.2. Concededly, the petitioner did not join the post by the date indicated in the letter of appointment.
  - 2.3. The petitioner, admittedly, sought an extension which was granted to



him up-until 31.03.2020, pursuant to his representation dated 18.03.2020, *via* memorandum dated 19.03.2020. Notably, this request for extension was preceded by an earlier request made by the petitioner, *via* communication dated 11.02.2020.

2.4. Concededly, on 25.03.2020 i.e., six days before the extended deadline for joining the post was to expire, the petitioner made another request for extension of time because of prevalence of coronavirus. The extension sought was till 20.04.2020. On 26.03.2020, the respondents communicated to the petitioner that he could join “after this problem” was over; by which they possibly meant that ferocity of the pandemic subsided.

2.5. It is the petitioner's case that the petitioner got no response to the communications that followed thereafter, including the communication dated 15.06.2020.

2.6. The petitioner, it appears, amongst other communications, also wrote to the respondents on 05.10.2020.

2.7. It is not in dispute that, based on the petitioner's request made in his communication dated 05.10.2020, the time given to the petitioner to join the subject post was extended till 12.10.2020. It was made clear though, that if the petitioner would fail to join the post by the said date, the offer of appointment shall stand cancelled.

2.8. The record shows that despite the extension granted up-until 12.10.2020, a further extension was granted by the respondents till 17.10.2020, *via* memorandum dated 14.10.2020. Admittedly, the petitioner failed to join duty on the date indicated by the respondents i.e., 17.10.2020.

3. It is in these circumstances that the offer of appointment was cancelled by the respondents on 20.10.2020.



3.1. It appears that the petitioner, thereafter, entered into correspondence with the respondents, and in this context, reference is made to the communications dated 21.10.2020, 02.11.2020, 23.11.2020, 27.11.2020, 09.12.2020, 23.12.2020, 31.12.2020, 11.01.2021, 29.01.2021, and 09.02.2021. It is relevant to note though that communications dated 09.12.2020, 23.12.2020 and 31.12.2020, have not been placed on record.

3.2. These communications were followed by a legal notice served by the petitioner to the respondents, on 16.02.2021

3.3. The record indicates that the petitioner approached this court, in the first instance, by way of a writ petition i.e., W.P.(C) No. 6197/2021 which was dismissed as withdrawn, with liberty to approach the Tribunal.

3.4. It is in these circumstances that the petitioner approached the Tribunal.

3.5. The Tribunal, after recording the dates and events to which we have made a reference above, *via* the impugned order dated 27.09.2021, declined to interfere with the order of cancellation of the offer of appointment dated 20.10.2020.

4. Mr R. K. Sonkiya, who appears on behalf of the petitioner, says that the petitioner was not able to join duty because of Covid-19 obtaining both in Delhi as well as Coimbatore in March 2020.

4.1. Mr Sonkiya says that the petitioner did attempt to join the service on or before 17.10.2020. In support of this plea, reliance is placed on a copy of air ticket, which was apparently bought by the petitioner to travel from Delhi to Coimbatore.

4.2. Mr Sonkiya says that the petitioner missed his flight as he was caught in traffic jam, and therefore, had to cancel his air journey.

5. On the other hand, Mr R. Rajappa, who appears on behalf of the



respondents, says that the petitioner was granted enough leeway to join the subject post.

5.1. It is Mr Rajappa's contention that, in February 2020, when the petitioner was asked to join for the first time, there were no restrictions in place on account of Covid-19.

5.2. Furthermore, Mr Rajappa says that the petitioner's inability to act with alacrity cannot be the reason to interfere with the order of the Tribunal or the action of the respondents in cancelling the offer of appointment.

5.3. In support of his plea, Mr Rajappa has placed reliance upon the judgment of the Supreme Court dated 16.09.2021, passed in Civil Appeal No. 5724/2021, titled *Nilesh Kumar Pandey vs. State of Chhattisgarh and Anr..*

6. We have heard the learned counsel for the parties and perused the record.

6.1. The dates and events noticed by us hereinabove are not in dispute.

6.2. What clearly emerges is that from the very first instance, the petitioner sought accommodation to join the offered post.

6.3. That apart, it has been correctly stated by Mr Rajappa that when the petitioner was asked to join the post on or before 10.02.2020, there were no restrictions prevailing in the country on travel on account of Covid-19.

6.4. As is evident from a bare perusal of the record, that the respondents on more than one occasion accommodated the petitioner. Extension of time for joining was granted to the petitioner over a period of eight (8) months. However, this leeway was narrowed down in October 2020, when situation *vis-a-vis* COVID-19 had improved.

6.5. As adverted to hereinabove, the petitioner recognised this fact and



decided to join the post before the last extension expired i.e., before 17.10.2020.

7. The petitioner's lack of alacrity, and if we may say so indolence, is reflected in his approach, which is, that he did not factor in a realistic journey-time required, having regard to the traffic on the road, to reach the airport at the appointed hour. The petitioner's portrayal that he missed his flight on 16.10.2020 on account of a traffic jam; if true, shows his inability to plan and factor in expected occurrences.

7.1. In our view, no further indulgence can be given to the petitioner.

7.2. It appears that, for whatever reason, the petitioner was reluctant, at least in the beginning, to join the offered post of SSA at Kendriya Vidyalaya Sangathan, Ooty.

8. Thus, given the foregoing circumstances, we find no reason to interfere with the order of the Tribunal dated 27.09.2021.

9. The writ petition is, accordingly, dismissed. Consequently, pending application shall also stand closed.

**RAJIV SHAKDHER, J**

**TALWANT SINGH, J**

**JANUARY 18, 2022/rb**

*Click here to check corrigendum, if any*