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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: November 02, 2023

+ W.P.(C) 14686/2022 & CM APPL. Nos.45035-45036/2022

PARMANAND

..... Petitioner

Through: Mr.Sourabh Ahuja, Advocate

versus

GNCT OF DELHI AND OTHERS

..... Respondents

Through: Mrs.Avnish Ahlawat, Standing Counsel, GNCTD with Mrs.Tania Ahlawat, Mr.Nitesh Kumar Singh, Ms.Laavanya Kaushik, Ms.Aliza Alam and Mr.Mohnish Sehrawat, Advocates.

Mr.Anil Soni, Standing Counsel, AICTE/respondent No.7.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA****V. KAMESWAR RAO, J. (ORAL)**

1. The present writ petition has been filed by the petitioner with the following prayers:

“a. Quash and set aside order dated 08.08.2022 (sic. 05.08.2022) passed by the Ld. Tribunal in OA No. 1930/2022 and order dated 19.09.2022 passed by the Ld. Tribunal in RA No. 70/2022 in OA No. 1930/2022.

b. Quash and set aside order dated 15.07.2022 passed by respondents whereby, the petitioner (Librarian) is retired from govt. service on attaining the age 60 years (i.e. with effect from



30.06.2022 (AN)) though the superannuation age of Librarian is 62 years.

c. Direct the respondents to reinstate/redeploy the petitioner in service to the post of Librarian and continue him in service till he attains his superannuation age of 62 years (30.06.2024) in conformity with Order dated 09.01.2009, Office Order dated 29.07.2010 etc. and further accord him all the consequential benefits including arrears of pay and allowances for the period he was kept out of work by the respondents along with 18% interest p.a. on such arrears. And

d. Award cost in favor of the Petitioner and against the respondents.”

2. Mr.Sourabh Ahuja, learned counsel for the petitioner submits that the grievance of the petitioner is that the OA which was required to be decided by the Division Bench of the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) but has been decided by a learned (Single) Administrative Member, and despite a request, the same was not placed before the Division Bench. He also states that, even a review petition has been filed on the said ground. In this regard Mr.Ahuja has drawn our attention to the paragraph 5 of the order dated August 08, 2022. He submits that instead of considering the issues raised in the review petition, the learned (Single) Administrative Member has dismissed the review petition on the ground that the review petition is not maintainable in terms of the law laid down by the Supreme Court under Order 47 Rule 1 CPC of the Civil Procedure Code, 1860 and also in the context of Section 22 (3)(f) of the Administrative Tribunal Act, 1985.

3. We find that the Tribunal, in paragraphs 7 and 8 of the order dated September 19, 2022, in review petition, has stated as under:



“7. This O.A. was heard on 05.08.2022. The preliminary objection raised by the learned counsel for the respondents regarding its maintainability was considered and the order was accordingly passed. No error apparent has been raised, as far as this RA is concerned. Learned counsel for the review applicant has not been able to show any error apparent on the face of record and has spoken about the jurisdiction of the Single Bench and the Division Bench instead of seeking review of the judgment on merits. This court in the judgment dated 08.08.2022 had also relied upon the other two judgments i.e. (i) in O.A. No. 1100/2019 decided on 23.08.2021 and (ii) in O.A. No. 1791/2022 decided on 15.07.2022 wherein similar objections had been dismissed being beyond jurisdiction. This was the moot point of the whole argument. As the O.A. was not maintainable in terms of jurisdiction, the other points become irrelevant. The R.A. is accordingly dismissed.

8. It has also been observed that there has been typographical error in the order passed in the O.A.1930/2022 wherein instead of indicating date of order as 05.08.2022 it has been typed as 08.08.2022. The Registry is directed to correct the same in the O.A. and thereafter issue a fresh copy to both the parties.”

4. We may state here that the Tribunal has not dealt with the issue raised in the review petition that the matter should have been decided by the Division Bench. The Tribunal has in fact stated that the issue raised in the OA or the OA itself was not maintainable, being beyond jurisdiction.

5. Appropriate should have been for the Tribunal to decide the effect of the OA having been decided by an Administrative Member i.e. the issue which was raised by the petitioner in the review petition.

6. Having not done that, we set aside the order dated September 19, 2022 passed in R.A. No.70/2022 and remand the matter back to the Tribunal for deciding the review petition afresh, by restoring on the Board of the Tribunal



the review petition after hearing the counsel for the parties in the Court. We grant liberty to the respondents herein to file a reply to the review petition.

7. At this stage, Mr.Ahuja seeks a direction to the Tribunal, for early disposal of the review petition. It shall be appropriate for him to make such a request to the Tribunal.

8. List the RA No.70/2022 at the first instance before the Tribunal on December 04, 2023.

9. With the above directions, the writ petition is disposed of along with pending applications.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

NOVEMBER 02, 2023/v