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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 589/2002

This the 23rd day of January, 2003

HON'BLE SHRI JUSTICE V. S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

1. T.R.Dahiya S/O Kahar Singh,
R/O A-125, Majlis Park,
Azadpur, Delhi-32.
2. Dr. Johri Lal S/O Mutsatti Lal,
R/O Vill. & P.O. Badall,
Delhi-110042. Applicants

(By Shri Baljeet Singh, Advocate)

"VERSUS"

1. Government of NCT of Delhi
through Chief Secretary,
Raj Niwas Marg, Delhi.
2. Director (Education),
Govt. of NCT of Delhi,
Old Secretariat, Delhi.
3. Additional Director of Education (Admn.),
Govt. of NCT of Delhi
Old Secretariat, Delhi.
4. Deputy Director of Education (Admn.),
Estt.II Branch,
Govt. of NCT of Delhi,
Old Secretariat, Delhi. Respondents

(By Mrs. Avnish Ahlawat, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant No.1 was appointed on 17.8.1964 as TGT (Middle) in MCD school in the pay scale of Rs.175-350. He acquired post-graduate qualification in 1966. Applicant No.2 was appointed as Language Teacher in MCD school on 26.11.1966. He acquired post-graduate degree in 1970.

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2. TGT (Middle) taught upto middle classes. TGT (Higher) were employed to teach upto class-X in the higher secondary schools in the pay scale of Rs.190-425. The pay scale of TGT (Middle) was revised on 27.5.1970 and brought at par with that of TGT (Higher). On 1.7.1970 over 4000 teachers in different categories in MCD schools were transferred en bloc to schools under Directorate of Education under respondent No.1 w.e.f. 1.5.1970, i.e., from the commencement of academic session 1970-71. Such teachers constituted a special cadre under respondent No.1 and the teachers already working under respondent No.1 were labelled as 'Administration Cadre'. The Hon'ble Supreme Court decided Civil Appeal No.2824/1984 : K.C.Gupta & Ors. v. Lt. Governor of Delhi & Ors., with Civil Appeal No.2825/1984 : K.C.Lakhanpal & Ors. v. Delhi Administration & Ors., on 16.8.1994 to set at rest various contentious issues between the said cadres of teachers. The effective part of the judgment relevant in the present matter is as under :

"(1) That the proportion between the TGTs of the Administration Cadre and the Special Cadre (Higher) will be worked out on their respective strength as it existed on the last day of the last academic session i.e. on 30.4.70 and thereafter the said proportion will be worked out on yearly basis. So long as TGTs Administration Cadre and TGTs Special Cadre (Higher), as on April 30, 1970, are available no TGT (Middle) can be considered for promotion to the higher post of PGT. When TGTs in the said cadres, as on April 30, 1970 are no longer available the promotion quota for TGTs Administration Cadre and TGTs Special Cadre and TGTs Special Cadre will have to be fixed yearly on the basis of the receptive strengths of the two cadres by taking into account TGTs (Middle) whose pay scales were revised with effect from May 27, 1970."

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In pursuance of the above judgment, respondents issued memorandum dated 17.7.1995 (Annexure A-II) fixing ratio between Special Cadre (Higher) and Administration Cadre on the basis of strength on yearly basis. In this OA, the ratio between TGTs of the above two cadres is also stated to have been calculated taking into account the strength of the TGT (Middle) of Special Cadre as on 30.4.1970. Applicants have agitated that respondents have not declared the date and the year when the strength of TGT (Middle) of Special Cadre as on 30.4.1970 has been taken into account for calculating the ratio. Respondents issued a corrigendum to OM dated 17.7.1995 on 4.8.1995 (Annexure A-III) thereby deleting the ratio fixed for promotion in respect of teachers appointed after 30.4.1970 of Administration Cadre and Special Cadre stating that the same would be fixed later on. Vide Annexure A-I dated 7.6.2000, respondents withdrew the corrigendum dated 4.8.1995 and restored the ratio fixed vide Annexure A-II memorandum dated 17.7.1995.

3. Applicants had earlier filed OA No.1937/1998 stating that respondents had not properly implemented the judgment dated 16.8.1994 of the Hon'ble Supreme Court. During the pendency of that OA, respondents issued orders dated 7.6.2000 and 9.6.2000 (Annexure A-I colly.) restoring the earlier ratio given in the 2nd part of the memorandum dated 17.7.1995. The earlier OA was disposed of by this Tribunal on 31.1.2002 allowing applicants to file fresh OA impugning orders dated 7.6.2000 and 9.6.2000. Hence, the present OA.

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4. The learned counsel of applicants contended that respondents have wrongly implemented the judgment dated 16.8.1994 of the Hon'ble Supreme Court by the impugned orders and sought setting aside and quashing of the impugned orders. He further contended that respondents should first declare the date from which the TGTs (Middle) and the Special Cadre are being taken into account for working out the ratio between TGTs (Administration Cadre) and TGTs (Special Cadre) for promotion from TGT to PGT, and also to declare the ratio after taking into account the strength of the TGT (Middle) of the Special Cadre and consider applicants for promotion as PGTs.

5. In reply, respondents have stated that this OA is barred by time. It has been submitted that memorandum dated 17.7.1995 having not been challenged has become final and orders dated 7.6.2000 and 9.6.2000 cannot be challenged. It is further stated that issue regarding fixation of ratio vide memorandum dated 17.7.1995 is also barred by limitation as well as principles of res judicata, the Hon'ble Supreme Court having categorically laid down directions for working out the proportion among different cadres. Respondents have also taken exception to this Tribunal's jurisdiction to interpret the judgment of the Hon'ble Supreme Court in any manner when the Hon'ble Supreme Court have issued explicit directions in categorical terms.

6. The learned counsel of applicants stated that by impugned orders respondents have wrongly interpreted

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and implemented the directions of the Hon'ble Supreme Court and as such the benefits due to applicants pursuant to that judgment have not been passed on to them.

7. The learned counsel of respondents, on the contrary, argued that even if for the sake of argument it is considered that respondents have wrongly interpreted and wrongly implemented the judgment of the Hon'ble Supreme Court, this Tribunal would have no jurisdiction to redress the grievance.

8. We have considered the rival contentions seriously. We find a great deal of substance in the contentions of respondents. The impugned orders have been passed in implementation of the aforesated judgment of the Hon'ble Supreme Court. It would be illegal and improper on the part of this Tribunal to consider the issue related to interpretation/implementation of the orders of the Hon'ble Supreme Court. In this light, the present OA is certainly not maintainable in this Tribunal. As such, this OA is dismissed as not maintainable and for want of jurisdiction, with liberty as per law.

V.K.Majotra

(V. K. Majotra)
Member (A)

V.S.Agarwal

(V. S. Aggarwal)
Chairman

/as/