

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1114/2002

Tuesday, this the 30th day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Shri Vir Singh
S/O Late Dal Chand
working as Life Guard
Govt. Senior Secondary School
Defence Colony, ND-24
2. Shri Jai Singh
s/o Shri Amar Singh
Working as Life Guard
Sarvodaya Bal Vidyalaya
Shahdara, Delhi-32
R/O House No.265, Gali No.1
Bhola Nath Nagar, Shahdara
Delhi-32
3. Shri Jai Pal Sharma
s/o Late Kansi Ram
working as Life Guard
Govt. Boys Sr. Sec. School
Bharat Nagar, Delhi-52
R/O Qr.No.112/224, Double Storey
Seelampur Market, Delhi-53
4. Shri Richhpal Singh
s/o Late Kishan Singh
Working as Life Guard
Govt. Boys Sr.Sec. School No.1
Jheel Khuranja, Delhi-31
R/o Vill & PO Dallupura, Delhi-96
5. Shri Dhani Ram
s/o Shri Pirbhoo Dayal
working as Life Guard
Sarvodaya Vidyalaya Ludlow Castle No.2
Delhi-54
R/O 272/1/8, Khandasa Road
Gurgaon, Haryana
6. Shri Braham Dutt
working as Life Guard
Govt. Boys Sr.Sec. School No.1
Rajouri Garden Ext. Delhi

..Applicants

(By Advocate: Shri K.P.Kapoor & Shri S.C.Singhal)

Versus

1. Govt. of NCT of Delhi
Sham Nath Marg, Delhi
(Through its Chief Secretary)
2. Director (Education)
Govt. of NCT of Delhi
Old Secretariat Building
Delhi-54

..Respondents

O R D E R (ORAL)

Shri S.A.T. Rizvi:-

Six applicants in the present OA, all Life Guards under the Directorate of Education, Govt. of NCT of Delhi, are aggrieved by the fact that after giving them the pay scale of Rs.5500-9000/- after the 5th Central Pay Commission's recommendations, orders have now been passed on 7.3.2002 (A-1) reducing their pay scale from Rs.5500-9000/- to Rs.5000-8000/- and that too w.e.f. 1.1.1996. As a result, the excess amount already paid to them is also sought to be recovered under the same order (A-1).

2. The learned counsel appearing on behalf of the applicants submits that parity between the pay scales of Life Guards and TGTs existed in 1972, 1973 and 1986, i.e., during the Pay Commissions upto the 4th Pay Commission. The claim of the Life Guards has not been considered, according to him, by the 5th CPC. However, by a Govt. decision, they were allowed to draw pay in the aforesaid scale of pay of Rs.5500-9000/- which is now sought to be reduced.

3. Apprehending reduction in their pay scale, the applicants had approached this Tribunal through OA-3119/2001. By their order of 13.11.2001, the Tribunal directed the respondents to put the applicants to notice before taking further action. In pursuance of this order, a show cause notice was issued on 24.12.2001 (A-4). In response to the aforesaid show cause notice, ^{the} representations were filed by the applicants on 2

various dates. The one filed by Shri Jai Pal Sharma, one of the applicants herein, which is placed on record, is dated 4.2.2002. After considering the aforesaid representations, the impugned order of 7.3.2002 has been passed wherein the respondent-authority has merely stated that the replies received in response to the show cause notices were found to be untenable. The learned counsel appearing on behalf of the applicants submits that such an order which does not disclose reasons cannot be said to be a speaking order and is, therefore, liable to be set aside.

4. We have considered the submissions made by the learned counsel and have, inter alia, perused the aforesaid show cause notice issued on 24.12.2001 (A-4). This, we find, is a detailed notice which seeks to reason out the grant of the lesser pay scale of Rs.5000-8000/- to the applicants. The sum and substance of the various issues raised, discussed and concluded in the aforesaid notice is that in view of the differences in the entry level qualifications and other relevant considerations ~~therein~~, there is no case for granting the pay scale of Teachers to the applicants. The other main ground advanced is that the applicants have been correctly placed in the replacement scale of Rs.5000-8000/- w.e.f. 1.1.1996 as their pay scale during the 4th CPC was Rs.1400-2600/-. An attempt has been made, even though indirectly, to indicate that where no recommendations have been made in respect of a post or cadre, the officers concerned are entitled only to replacement scales and not to a higher grade of pay. The same

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reasoning has been applied to the applicants. In the representations filed in response to the aforesaid show cause notice, the applicants have tried to establish equivalence between the Life Guards and the TGTs on two grounds. Firstly, parity of pay scales existed between the aforesaid posts right upto 4th CPC and, therefore, the same parity should have been extended during the 5th CPC period. Secondly, the post of Swimming Coach, which is the next promotional post for Life Guard, has been placed on par with the PGT, the next promotional post for TGTs right upto 5th CPC's report. On these two grounds, the applicants have made out a case in their aforesaid representations that Life Guards should be placed in the higher pay grade of Rs.5500-9000/-. In the impugned order passed on 7.3.2002 (A-1), the respondents do not appear to have taken notice of the aforesaid grounds. Nothing at all has been said in the impugned order about the issue of equivalence raised by the applicants in their representations. To this extent, the impugned order cannot be said to be a speaking order.

5. In the aforesated circumstances, we are inclined to dispose of this OA at this very stage even without issuing ~~notices~~ notices with a direction to the respondents to re-examine the issues raised by the applicants in their representations specially with regard to the issue of equivalence and pass a supplementary order as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order. While passing the supplementary order, the respondents will have liberty to review, if found

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necessary, the impugned order of 7.3.2002 (A-1). Before passing the supplementary order, an opportunity shall be given to the applicants for being personally heard. We direct accordingly. We also direct that until supplementary order, as above, has been passed, recoveries sought to be made in accordance with the impugned order will remain stayed.

6. The present OA is disposed of in the aforesated terms at the admission stage itself. No costs.

S.A.T.Rizvi
Issue Dasti.
(S.A.T.Rizvi)
Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

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