

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.Nos. 3213 & 3214 of 2002

Thursday, this the 20th day of November, 2003

Hon'ble Shri Justice V. S. Aggarwal, Chairman
Hon'ble Shri S. A. Singh, Member (A)

OA-3213/2002

Alem Chand Sharma
s/o Shri Ghazi Ram Sharma
r/o F-1942, Netaji Nagar,
New Delhi-23



OA-3214/2002

Satya Pal Singh Saini
s/o Shri Ram Prasad Saini
r/o H.No.337
Meetha Pur Extn., Part-II
Delhi-41

..Applicants

(By Advocate: Shri A.K.Behera)

Versus

1. The Administrator
Govt. of NCT of Delhi
Raj Niwas, New Delhi
2. The Secretary, Education Department
The Govt. of NCT of Delhi
Old Secretariat,
New Delhi-2
3. The Joint Director of Education
The Govt. of NCT of Delhi
Old Secretariat
New Delhi-2

..Respondents

(By Advocate: Shri Mohit Madan for Smt. Avnish Ahlawat)

O R D E R (ORAL)

Justice V.S.Agarwal:

By this common order, we are proposing to dispose of two petitions (OA Nos. 3213 and 3214 of 2002) but we are taking the facts of OA-3214/2002 for the sake of convenience.

2. In the year 1982-93, the Delhi Administration notified 654 vacancies of Trained Graduate Teachers. The

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Employment Exchange was asked to sponsor the names of suitable candidates for appointment. The Employment Exchange upto June 1984 sponsored 4000 candidates. The Staff Selection Board invited the candidates and prepared a panel containing an aggregate of 1492 names of selected candidates. We are informed that the panels were displayed on the notice board stating specifically that the appointments would be in the order of merit. The appointments would be made from the select list till the last candidate is appointed. It was stated in the minutes of the meeting of the Staff Selection Board that the life of the panels of selected candidates would be valid for an indefinite period. In some minutes, it was stated that the panel of selected candidates will remain valid till all the candidates are offered the appointments.

3. The Delhi Administration, in the first instance, appointed 527 candidates out of the selected panels. Later on they appointed 127 more candidates. It was pointed that some more candidates were also appointed during the pendency of the proceedings, to which we shall refer to hereinafter. The remaining selected candidates waited. Meanwhile an Advertisement appeared inviting fresh applications for further recruitment.

4. Ishwar Singh Khatri and others, including Barojgar Shikshak Sangathan, which is an association of such persons, had filed petition before this Tribunal. The said petition had been allowed. Aggrieved by the same, the Union of India preferred Civil Appeal No. 1900/1987 which was decided by the Apex Court on

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4.8.1989. The Supreme Court declined to interfere in the order passed by this Tribunal and the operative part of the order reads:-

"In fact we wanted to ascertain the actual number of vacancies that existed as on the preparation of panels of the selected candidates. We requested Mr. Suba Rao, counsel for Delhi Administration to find out and inform us about the actual fact. Counsel although took time to verify, finally pleaded his inability to furnish the required particulars.

Therefore, in the premises we have to conclude that the Selection Board prepared the panels containing 1492 candidates as against the then available vacancies. In view of this conclusion, it goes without saying that the selected candidates have a right to get appointment. We, therefore, see no reason to disturb the judgment of the Tribunal.

It is made clear that the Administration shall fill up all the existing vacancies within one month from today till the panels in question are exhausted. With this direction, the appeal is disposed of. In the circumstances of the case, there will be no order as to costs.

Before parting with the case we must notice one other aspect. During the pendency of the proceedings before the Tribunal and also in this Court, Delhi Administration appears to have appointed some fresh candidates. We do not want to disturb their appointments nor it is proper for Delhi Administration to disturb them. Needless, however, to state that the candidates in the panels when appointed pursuant to our order must get their seniority as per their rankings in the select panels over the persons appointed in the interregnum."

5. In pursuance to the order passed by the Supreme Court, certain benefits were granted to one of the applicants in the above said litigation, i.e., Shri Ishwar Singh Khatri and the said order reads:-

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"Now, therefore, in pursuance of the above said directions of the JDE (A) sanction under F.R. 27 is accorded for the fixation protection of pay of Sh./Smt. Ishwar Singh Khatri TGT at Rs.1560/- w.e.f. 23.7.1988 i.e. the date of his/her actual joining duties in the Dt. Of Education with DNT as 1.1.1989 taking into account the date for notional pay fixation as referred to in para 3 supra in the pre revised pay scale of Rs. 1400-40-1600-50 EB 50-1950-EB-50-2250-EB 50-2300-50-2600 the official will be entitled to further increments as usual after completion of qualifying services of 12 months unless the increment is withheld by any order of the competent authority or the official is held up at the efficiency per stage. Increment above the stage of efficiency bar will be released after necessary orders of the competent Authority for crossing at the bar."

6. Thereafter it appears that regarding fixation of pay notionally from the date of panel in respect of TGTs/LTs selected in the year 1983-84, another order had been issued by the Directorate of Education which reads:-

"Fixation of Pay notionally from the date of panel in respect of TGTs/L.Ts. selected in 1983-84 and appointed in 1989-90 by court orders.

In continuation of this Department's letter No. F.DE-3(31)/Estt. TIT/Spl.Cell/96/7766-7801 dated 22.4.97, followed by letter F.DE-3 (144) E-III/95/24951-25031 dated 10.11.97 and the corrigendum No.F.DE-3(31)/Spl.Cell/96/E.III/25753-813 dated 27.11.97, it is hereby ordered in view of the judgement of the Hon'ble CAT in O.A. No.1691/94 and 1979-A/96 'Sh. Sohanbir Singh vs. UOI' that the date of panel shown in column No.7 of the seniority lists vide letter No.F.DE-3(31)/Spl.Cell/E.III/96/ 5635-95, DE-3(41)E.III/Spl.Cell/96/ 5696-5755, DE- 3(30)/E.III/Spl.Cell/96/5159- 5219 DE-3 (32)/E.III/Spl.Cell/96/ 5220-80 dated 26.3.97, 26.3.97, 21.3.97 and 21.3.97 and 21.3.97 respectively, may be taken as the date for the purpose of notional Pay Fixation under FR-27 only. No other benefits except the notional Pay Fixation under FR-27 will be admissible

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in these cases, Financial benefits on account of the above pay fixation will be admissible only with effect from the actual date of their joining the Govt. service in the grade.

This issues with the prior approval of the Secretary (Education)."

7. The grievance of the applicants is that they are being denied the said benefit of notional fixation of pay and further that as a consequential, they are also entitled to the benefit of Assured Career Progression Scheme.

8. The petition is being contested. The respondents contend that the Supreme Court had not granted any such benefit of notional fixation of pay. It is also pointed that certain Post Graduate Teachers had filed OA-569/96 entitled Mrs. Nirmal Gupta & others v. Lt. Governor-cum-Administrator of Delhi & others which was dismissed on 18.1.2000. Consequently, the respondents contend that the applicants cannot claim the said relief.

9. We have heard the parties' learned counsel,

10. At the outset, we deem it necessary to mention that before the Apex Court and in the earlier original application, Ishwar Singh Khatri and five other persons were parties. However, the association - Barojgar Shikshak Sangathan - was also a party and, therefore, it must be stated that the applicants were represented before the Supreme Court through their representative body.

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11. As referred to above, strong reliance was being placed on the decision of this Tribunal in OA-569/96 in the case of Mrs. Nirmal Gupta (supra). It was urged that in the said application it was concluded that the benefit of notional fixation of pay cannot be awarded to the Post Graduate Teachers. The findings read:-

"7. The other claim of the applicants is that they are entitled to pay fixation and financial benefits from the date that they would have been normally appointed but for the action of the respondents to operate subsequent panels. We do not consider that the applicants are entitled to these reliefs. Admittedly, the applicants had not worked as PGTs during the intervening period. In view of this, they cannot be granted pay and allowances on the assumption that they were entitled to be appointed earlier. In our view it would be sufficient compensation if they maintain their seniority over subsequent panels so that their prospective service interests are protected."

12. The basic difference, however, that would prompt us not to follow the earlier order of this Tribunal is that the applicants are Trained Graduate Teachers. It is their rights that were adjudicated by the Supreme Court. The Post Graduate Teachers were not parties before the Supreme Court. Resultantly, the respondents cannot rely on the said decision rendered by this Tribunal in the case of Mrs. Nirmal Gupta (supra) to non-suit the applicants.

13. We have already reproduced the order passed by the Directorate of Education appearing in Delhi School Manual, in the preceding paragraphs. Perusal of it clearly shows that in pursuance of the decision of the Supreme Court, a general order had been passed to give

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benefit of notional pay fixation under FR-27. This is in pursuance of the decision rendered by this Tribunal in OA-1691/94 entitled Sohanbir Singh v. Union of India. Once the general benefit had been accorded, we fail to understand as to why the respondents are not giving the said benefit to the applicants. So long as the said order referred to above passed by the Directorate of Education stands, the applicants necessarily are entitled to the similar benefits as were accorded in the case of Sohanbir Singh (supra).

14. So far as the grant of Assured Career Progression Scheme is concerned, learned counsel for applicants, keeping in view the Rule 10 of C.A.T. (Procedure) Rules, 1987, does not press the present relief and states that if necessary he will take up the matter afresh. Allowed as prayed.

15. For these reasons, we dispose of the present petitions with the following directions:-

- a) the relief pertaining to Assured Career Progression Scheme is dismissed as withdrawn. The applicants may, if so advised, take up the matter in case the need arises,
- b) so long as the order passed by the Directorate of Education dated 30.4.1998 is in force, the applicants are entitled to the benefit of fixation of notional pay as was accorded in the case of Sohanbir Singh (supra); and

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6) the necessary benefit, if any, should be accorded preferably within six months from the date of receipt of a certified copy of the present order.

~~K. S. A. Singh~~
(S. A. Singh)
Member (A)

(V. S. Aggarwal)
Chairman

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