

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 11 of 2019

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Bijaylaxmi Das, aged about 61 years, D/o Late Dayanidhi Das (Retired PGT (Math) K.V.Cuttack-1), At-Dayanidhi Srutikala Parisad, PO-Arunodaya Nagar, Dist.- Cuttack - 753012.

.....Applicant.

VERSUS

1. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi – 110016.
2. Joint Commissioner (Admn), Kendriya Vidyalaya Sangathan, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi – 110016.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi – 110016.
4. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Pragati Vihar Colony, Mancheswar, Bhubaneswar, Dist.- Khurda – 751017.
5. Principal, Kendriya Vidyalaya, No-1, At/PO/Dist-Cuttack – 750014.

.....Respondents.

For the applicant : Mr.D.P.Dhalsamant, counsel

For the respondents: Mr.H.K.Tripathy, counsel

Heard & reserved on : 3.1.2020

Order on : 05.02.2020

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The applicant by filing this OA under section 19 of the Administrative Tribunals Act, 1985 has prayed for the following reliefs :-

- “8.1 That the order dated 20/21/08.2018 (A/6) be quashed.
 - 8.2 That the respondents be directed to grant senior scale of PGT to the applicant w.e.f. 20.11.2014 with all consequential service benefits.
 - 8.3 That any other order/orders as it would deem fit and proper to give complete relief to the applicant.”
2. The applicant who is continuing as PGT (Math) at Kendriya Vidyalaya No.1 Cuttack is aggrieved since although he was entitled for the Senior Scale on completion of 12 years of service w.e.f. 20.11.2014, but he was actually granted the same w.e.f. 3.1.2016 on completion of the in-service training

course. The applicant represented to the respondent No. 3 (Annexure-A/5) for grant of senior scale w.e.f. 20.11.2014 by relaxing one day of the in-service training course as it was not the applicant's fault that she could not complete the training in due date. This was duly recommended to the respondent No.2. The competent authority passed the impugned order dated 20/21.8.2018 (Annexure-A/6) stating that since the applicant has not completed 21 days of in-service training course from 20.11.2008 till 19.11.2014, she was not eligible for senior scale w.e.f. 20.11.2014. The applicant claimed that she was not sent for the in-service training course during the period from 20.11.2008 to 19.11.2014 and hence she was not to be responsible for non-completion of the training in time.

3. The respondents filed Counter stating that fulfillment of 21 in-service training course within 6 years prior to the date of senior scale is required as per the existing instructions. Since the applicant has fulfilled all the requirements on 2.1.2016, she was allowed senior scale w.e.f. 3.1.2016. It is stated that the applicant did not approach the authority for sponsoring her name for the training course so as to complete 21 days of training between 20.11.2008 to 19.11.2014.

4. Rejoinder has been filed stating that the applicant's case was recommended for grant of senior scale w.e.f. 20.11.2014 by relaxing one day of training and that she was not provided any opportunity by the authorities for the training of 21 days within 6 years before 20.11.2014.

5. Heard learned counsel for the applicant, who pointed out to the circular dated 2.6.2004 (Annexure-B of the Preliminary Counter filed by the respondents) which provides for relaxation in case attending the in-service training course was beyond the control of the concerned individual, he/she will be allowed senior scale from due date after completion of 21 days of training. He submitted that as averred in para 4.12 of the OA, the applicant was not sponsored for training in due time by the authorities, for which her case be considered for relaxation as per the circular dated 2.6.2004.

6. Heard learned counsel for the respondents who referred to the averments made in para 8 of the Counter stating that the applicant did not fulfill the requirement of training by 20.11.2014 so as to get the senior scale. It was also pointed out that the applicant submitted the representation in 2017 after her retirement from service.

7. We have considered the pleadings as well as the submissions by the parties. Admittedly, there was shortfall of training in 6 year period as on

20.11.2014 when the applicant was due to get the senior scale. The letter dated 3.8.2016 (Annexure-A/1) has mentioned the following details of her training as under:-

“4. However it is submitted that she did following In-Service Courses:

First

- a. 08.06.2007 to 19.06.2007 (12 Days)
- b. 29.10.2007 to 31.10.2007 (03 Days)
- c. 28.04.2008 to 30.04.2008 (03 Days)
- d. 17.11.2008 to **19.11.2008** (03 Days)

Second

- e. 03.05.2015 to 14.05.2015 (12 Days)
- f. 24.12.2015 to 02.01.2016 (10 Days)

5. Since the 1st in-Service Course was completed 1 day prior to become eligible for the Senior Scale, DPC decided to grant her Senior Scale w.e.f. 03.01.2016 i.e. the next day of her latest In-service Course.”

8. The circular dated 2.6.2004 of the respondent no.1 (Kendriya Vidyalaya Sangathan) has laid down the relevant policy guidelines as under:-

“References have been received from many of the Regional Offices seeking clarification on grant of Senior Selection Scale to eligible Teachers who have not attended In-service courses prior to the due date. Now after careful examination, the competent authority has decided as under :

- (i) In case it has been established by the competent authority that the individual teacher was provided sufficient opportunities by KVS to attend the required 03 weeks Inservice Course during last six years prior to his due date for becoming eligible to Senior/Selection Scale but the teacher concerned refrained from attending such course on one pretext or the other, in such cases he/she may be granted Senior/Selection Scale only from the date of completion of 03 weeks training course.
- (ii) In case in any particular case it has been established by the competent authority that attending of Inservice Course when deputed prior to the due date was beyond the control of individual concerned he/she may be allowed Senior /Selection Scale from the due date that too after completion of 03 weeks Training Programme.

2. The cases of relaxation will be examined by the DPC keeping in view the records and details called from KVS ROs on the following proforma and the same be sent to KVS Headquarters for decision as detailed below.....”

9. As laid down in the circular dated 2.6.2004, if a teacher was provided sufficient opportunities to attend the required 3 weeks in-service training during the relevant period prior to eligibility for sanction of senior scale and the concerned teacher did not attend such training course on some pretext, then the date of sanction of senior scale will be the date from which he/she completed that requirement of in-service training. The respondents in this OA have applied this principle for the applicant, for whom the relevant period was from 20.11.2008 to 19.11.2014. But there is nothing on record furnished by the respondents in their pleadings to prove that sufficient opportunity was given to the applicant to undergo training during the period in question. The impugned order at Annexure-A/6 and the Counter are silent as to whether the applicant was deputed for 3 weeks of in-service training course during the

period from 20.11.2008 to 19.11.2014 and she did not avail of the same. From the documents furnished by the respondents it appears that the applicant was not deputed for any training during the above period. As contended in para 10 of the Counter, the applicant was expected to submit a representation to the authorities about her training and she never approached the authorities about it. But the policy circular dated 2.6.2004 does not require the applicant to submit any representation for being deputed for in-service training within the required time. Hence, we are unable to accept such contentions of the respondents.

10. For the reasons as discussed above, the impugned order dated 20/21.8.2018 (Annexure-A/6) for rejecting applicant's claim is not sustainable under law as it is not mentioned in accordance with the circular dated 2.6.2004 (Annexure-B of the Preliminary Counter filed by the respondents) and hence, it is liable to be quashed. The said order is accordingly quashed and the matter is remitted to the respondent no. 4 to reconsider the representation dated 2.5.2017 (Annexure-A/5) of the applicant in the light of the circular dated 2.6.2004 and pass a fresh speaking order, copy of which is to be communicated to the applicant within 2 (two) months from the date of receipt of a copy of this order. It is made clear that if any opportunity was allowed to the applicant to attend at least 21 days of in-service training during the period from 20.11.2008 to 19.11.2014 and the applicant had not availed the same, as per the records available with the respondents, then as per the circular dated 2.6.2004, the applicant will not be entitled for the benefit of the senior scale w.e.f. 20.11.2014 and if no such opportunity was allowed to the applicant, then she will be eligible for such benefit. If the applicant is found eligible for the benefit of the senior scale w.e.f. 20.11.2014, then consequential service benefits as per the rules are to be allowed in favour of the applicant within a period of four months from the date of receipt of a copy of this order.

11. The OA stands allowed as above. No order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)