

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2598/2001

This the 10th day of May, 2002.

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

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Puran Singh Khatkar,
R/O B-18, Sarai Pipalthala Extn.,
Adarsh Nagar, Delhi-33. Applicant

(By Shri Yogesh Sharma, Advocate)

--versus--

1. Union of India through
Secretary, Ministry of
Human Resources Development,
Govt. of India, New Delhi.
2. N.C.T. of Delhi through
Chief Secretary,
New Secretariat, New Delhi.
3. Secretary (Education),
Govt. of N.C.T. of Delhi,
Old Secretariat,
Delhi. Respondents

(By Shri Ashwani Bhardwaj for Shri Rajan Sharma, Adv.)

O R D E R (ORAL)

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

The grievance of applicant is that though both under the Third and Fourth Pay Commissions' recommendations the post of Assistant Social Education Officer (ASEO) was placed in the same scale of pay as PGT, the pay scale of PGTs recommended under the Fifth Central Pay Commission (CPC) was not accorded to ASEOs. Applicant has impugned Annexure A-9 dated 28.10.1997 whereby ASEOs have been placed in the revised scale of Rs.5500-9000, while PGTs have been accorded the pay scale of Rs.6500-10500, though prior to the Fifth CPC both categories were getting the pay scale of Rs.1640-2900.

Applicant has sought direction to respondents to fix his

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pay in the pay scale of Rs.6500-10500 w.e.f. 1.1.1996 with consequential benefits including arrears of pay with interest, besides quashing of the order dated 28.10.1997.

2. Learned counsel of applicant, Shri Yogesh Sharma, stated that vide Annexure A-1 dated 2.12.1970, Education Department, Delhi Administration proposed to the Government of India, Ministry of Education & Youth Services, among other things, equation of the category of ASE0 (Rs.250-470) to the post of PGT (Rs.275-550 w.e.f. 21.12.1967 and Rs.300-600 w.e.f. 27.5.1970). Vide Annexure A-2 dated 29.6.1972 it was decided by the President of India to revise the scales of pay of interchangeable/left-over categories of posts. As proposed vide Annexure A-1, the post of ASE0 having the scale of pay prior to 21.12.1967 as Rs.250-470 was placed in the scale of pay of Rs.270-550 w.e.f. 21.12.1967 and in the scale of Rs.350-700 w.e.f. 27.5.1970 which were the same pay scales which were given to PGTs. Learned counsel further relied on Annexure A-5 dated 29.3.1979 to establish that posts of ASE0 and PGT were interchangeable. Vide Annexure A-5, two ASEOs were transferred as PGTs. Learned counsel further contended that as per the recruitment rules both posts of PGT and ASE0 are treated feeder categories for promotion to the post of Vice Principal. On the basis of the above averments, learned counsel stated that respondents have arbitrarily discriminated against applicant and placed him in the scale of Rs.5500-9000 which is lower than the grade of Rs.6500-10500, which is the revised scale granted to PGT w.e.f. 1.1.1996 despite the fact that

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ASEO and PGT have been equated with each other and drawing the same scales of pay since 1967.^h

3. On the other hand, learned counsel of respondents, first of all, raised the issue of limitation stating that whereas applicant was given the lower pay scale w.e.f. 30.9.1997, present OA has been made on 27.9.2001, which is much beyond the permissible period of limitation. The learned counsel also filed a copy of Government of India, Department of Education memo dated 5.6.1998 stating that demand of the ASEOs, Supervisors and Education Workers for grant of improved pay scale has not been conceded as these posts have not been equated with the teaching posts.

4. So far as the objection of respondents relating to limitation is concerned, the same is rejected as it is well settled that fixation of pay is a recurring cause of action and not barred by limitation. In this regard we draw support from **M.R.Gupta v. Union of India, 1995 (5) SCALE 29 (SC).**

5. From Annexures A-1 and A-2 it is established that ASEO and Assistant District Inspector had been drawing the same scale as PGTs w.e.f. 21.12.1967. They have continued to draw identical pay scales till the recommendations of Fifth CPC were effected w.e.f. 1997. Annexure A-3 dated 11.12.1997 clearly establishes that posts of ASEOs and PGTs are equivalent and interchangeable and have been drawing the same scales of pay during the Third and Fourth CPCs till 31.12.1995.

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However, vide Annexure A-9 dated 28.10.1997, as a result of Government of India notification dated 30.9.1997 applicant was granted the pay scale of Rs.5500-9000 as ASE0 which is inferior to the scale of PGT which was placed in the pay scale of Rs.6500-10500 as per Annexure A-10. Learned counsel of respondents stated that applicant's post has not been equated with the teaching posts vide memo dated 5.6.1998 issued by Director (UT), Government of India, Ministry of Human Resources Development (Department of Education). We find that whereas applicant's post of ASE0 had been equated and placed in the scales of PGT from time to time since 1967 as per Annexure A-2, which were Presidential orders, respondents are now relying on order dated 5.6.1998 issued by a Director in denying the equation of ASE0 with the post of PGT on the basis of certain instructions of Ministry of Finance. Learned counsel of applicants relied on *Vijay Singh Rao v. State of Haryana & Anr.*, 1986 (1) SLR 455 (Punjab & Haryana High Court) holding that instructions issued by finance department have no legal and binding force. These are only administrative in nature. In our view, Annexure A-2 dated 29.6.1972 were Presidential orders whereby the post of ASE0 was equated with the post of PGT and accorded the same scale of pay right from 1967 to 1995. Presidential orders will certainly have precedence over the orders issued by a Director of the Department of Education without obtaining Presidential orders for supersession of the earlier orders and denying equation of the post of ASE0 with PGT.



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6. From the above discussion, it is established that the post of ASEO has been equated with and enjoying the same scale of pay as that of PGT since 1967. The posts are also interchangeable and act as feeder categories under the recruitment rules for promotion to the post of Vice Principal.

7. Having regard to the reasons recorded and discussion made above, we quash and set aside the order dated 28.10.1997 (Annexure A-9) qua the post of ASEO and direct respondents to re-consider the claims of applicant for equation of his post and pay scale with that of PGT w.e.f. 1.1.1996. In the event of an adverse decision to revise the scale of pay of the post of ASEO as available to PGT, i.e., Rs.6500-10500, respondents shall obtain Presidential orders as the post of ASEO has had equation and parity of scale with the post of PGT since 1967 as per the decision of the President. Respondents are directed to complete the above exercise within a period of three months from the date of communication of these orders.

8. The OA is partly allowed as above. No costs.

S. Raju

(Sankar Raju)

Member (J)

V. K. Majotra

(V. K. Majotra)

Member (A)

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