

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1116/99

New Delhi this the 8th day of March, 2001

Hon'ble Mr. V.K. Majotra, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

1. Mrs. Rita Rani
W/o Shri Vijay Gupta,
R/o H-160, Rama Krishna Vihar,
29, I.P. Ext., Patparganj
Delhi-92.
2. Mrs. Aruna Virmani
W/o Shri K.C. Virmani
R/o F-8, Delhi Govt. Officers' Flats,
Model Town,
Delhi.
3. Mrs. Gurjinder Kaur,
W/o Late Shri Jaswant Singh
R/o 136/3, Sector-I,
M.B. Road, Saket,
New Delhi.
4. Smt. T.M.F. Zaidi,
W/o Shri B. Ahmad,
R/o B-59, D.D.A. Flats,
Block A, Vasant Vihar,
New Delhi.
5. Mrs. Madhulika Misra,
W/o Shri Rajendra Misra,
R/o 1166, Sector A, Pocket A,
Vasant Kunj, New Delhi.
6. Mrs. Utpala Bhattacharya,
W/o Shri Alok Bhattacharya,
R/o EA-395, Maya Enclave, SFS Flats,
Rajouri Garden,
New Delhi.
7. Dr. Sukhdev Singh
S/o Sh. Rup Singh
R/o B-66/1, Gautam Nagar,
New Delhi-49.
8. Dr. Padm. Nabh Vasudeva
S/o Sh. Gurdas Ram Vasudeva,
R/o DA-52-A, Hari Nagar,
New Delhi-64.
9. Shri Murari Lal
S/o Shri Shanker Lal
R/o 370-B, Delhi Admn. Flats,
Timarpur, Delhi-54.
10. Mrs. Meera Kapoor,
W/o Shri Rakesh Kapoor,
R/o A-105, Shanker Garden (GF)
New Delhi-18.

11. Mrs. Gunamrit Kaur
W/o Sh. Jagmohan,
R/o A-105, Shanker Garden (GF),
New Delhi-18.
12. Ms. Subha Chauhan
W/o Dr. Madhu Ray
R/o 49, D.D.A. Flats,
Gulmohar Enclave,
New Delhi-49.
13. Ms. Veera Singh Parmar,
W/o Shri Vijay Parmar
R/o E-10/5, DLF Qutab Enclave,
Phase-I, Gurgaon.
14. Ms. Prabhu Jyoti
W/o Shri Kulwant Singh
R/o 217, Asiad Village,
New Delhi-49.
15. Ms. Madhu Bansal
W/o Shri Ashok Kr. Bansal
R/o 135, Vasant Enclave,
New Delhi-57.
16. Daleep Kalra
W/o Sardar Manmohan Singh Kalra
R/o I-99, Lajpat Nagar-I,
New Delhi.
17. Mrs. Shakuntala Sinha
W/o late Dr. C.P. Sinha,
R/o A-37, Ashok Nagar,
Ghaziabad (U.P.)
18. Mrs. Vijay Sehgal,
W/o Sh. S.L. Sehgal,
R/o D-134, Suraj Mal Vihar,
Delhi.
19. Mrs. Gulshan Rai
W/o Shri Naresh Kumar Rai,
R/o A-15, Surya Nagar,
Ghaziabad (U.P.)
20. Mrs. Neeta Sharma,
W/o Shri Ajai Vaid
R/o A-107, Pragati Vihar,
New Delhi.

-Applicants

(By Advocate: Shri M.L. Ohri)

Versus

1. Union of India,
Through Lt. Governor,
Raj Niwas, Delhi.
2. Chief Secretary,
5, Shamnath Marg,
Govt. of NCT of Delhi,
Delhi.

3. Secretary (Education)
Old Secretariate,
Delhi.
4. Director of Education
Directorate of Education,
Old Secretariate, Delhi.

-Respondents

(By Advocate: Shri George Paracken)

O R D E R

Mr. V.K. Majotra, Member (A)

Applicants, 20 in number, have the same grievance and seek the same relief for consideration as PGTs for promotion to the post of Vice-Principal. MA-1003/99 in this behalf for joining together is allowed.

2. They are Educational and Vocational Guidance Counsellors (EVGC) in the scale of Rs. 550-900 (Pre-revised) from 1977 onwards in the Department of Education of the Govt. of NCT of Delhi. They claim to have been included in the list of PGTs and a decision was taken by the Director of Education that EVGCs would be considered for promotion and other benefits as PGTs (Annexure P-VI). Although they have the same pay scale as PGTs, their names do not find place in the final seniority list of PGTs dated 10.2.99 (Annexure P-I). According to them as they are recognised as PGTs, they should be considered for promotion as Vice Principal as they do not have separate promotional avenues. According to the applicants, the IVth and Vth Central Pay Commissions have recommended that there must be atleast two promotions in the career of every person and if they



are not there, such posts should be clubbed with identical posts to bring it also in the feeder cadre. The applicants have averred that their representation for treatment as PGTs for purposes of promotion to the posts of Vice Principal have not been considered. They have sought merger with PGTs for purpose of promotion as Vice Principal along with PGTs with a direction to respondents to issue another seniority list of PGTs including the EVGCS among them. In the alternative they have prayed for a direction to respondents to include them as a feeder cadre for Vice Principal as done in the case of ASEO by amending the Recruitment Rules for Vice Principals.

3. The respondents in their counter have denied equivalence of EVGCS to the post of PGT for purpose of promotion to the post of Vice Principal. According to them, as per the Recruitment Rules for the post of Vice Principal, the feeder cadre is PGT (Special Cadre), PGT (Admn. cadre) and Head Master, Middle Schools. Thus, as EVGCS are not PGT and also the EVGC do not come under the above feeder cadres, their names are not included in the seniority list of PGT (Admn. cadre) and thus they are not promoted to the post of Vice Principal. According to the respondents, though Librarian/Lab. Assistant are also equal to different cadres of teacher in their pay scales but it does not entitle them to come under the category of Teacher which forms feeder cadre of Vice-Principal. Thus, neither they nor applicants as EVGC are included in the seniority list of PGTs for purpose of promotion to the post of Vice-Principal.

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The respondents have also stated that even PGTs (Physical Education) are not promoted as Vice-Principal. The respondents have stated that qualifications of EVGC and PGT teachers are different. Whereas for PGT, B.Ed is essential qualification, for EVGC degree or Diploma is required in Guidance and Counselling, even otherwise mere equal qualification does not mean that they are in the same category for all purposes. The respondents have stated that the EVGCs have a separate promotional avenue i.e. to the post of Guidance Officer in their own cadre and a post cannot be included for two different posts as feeder cadre. The applicants have filed a rejoinder also.

4. We have heard the learned counsel of both sides and perused the material on record.

5. The learned counsel of the applicant referred to order dated 8.5.92 in OA-2580/91 Smt. Tara Mody Vs. Delhi Administration & Another (Annexure-X) wherein it was held that the duties performed by the applicant as EVGCs are substantially that of a teacher like any other teacher in the schools under the Directorate of Education and as such she should be allowed to work till attainment of 60 years of age when she would superannuate from service. The learned counsel also drew our attention to P-VI relating to a Meeting between President, EVGC and Director of Education held on 18.11.92 in which it was decided that Counsellors should be included in the seniority list of PGTs for the purpose of promotion and other service benefits. The learned counsel stated

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that the decision in the meeting binds the respondents to accord status and benefits of PGTs to the applicants. Referring to the recommendations of 7th CPC the learned counsel stated that the isolated posts have to be made part of an organised cadre even if it is not possible to do so in the same department they have to be made part of an organised cadre even in another department. The availability of Assured Career Progression Scheme (for short, ACP) is an additional facility than inclusion of isolated posts in an organised cadre. Learned counsel placed reliance on Raghnath Prasad Singh vs. Secretary, Home (Police) Department, Government of Bihar and others AIR 1988 SC 1033 and Council of Scientific and Industrial Research and Another vs. K.G.S. Bhatt and Another 1989 (4) SCC 635=1989 (4) SCR 252 contending that "reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly". In the latter case, Civil Engineers working in a scientific cadre were recommended inclusion in the feeder cadre for promotion. The learned counsel of the respondents pointed out that the applicants have not challenged their own Recruitment Rules under which they have a separate avenue of promotion to the post of Guidance Officer. He mentioned that various other categories like Librarian, PGT, (Physical Education/Coaches) do not form feeder cadre to the post of Vice-Principal. The

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post of EVGC was included among the PGTs erroneously. Thus, this category was excluded from the list of PGTs. The learned counsel further stated that it is a policy matter whether a particular category of employees should be included in a particular feeder cadre for promotion to another cadre. He further contended that in the case of Smt. Tara Mody (Supra) an EVGC was considered as a teacher for purposes of pay and allowances and superannuation only and not for the purpose of inclusion among PGTs as a feeder cadre for promotion to the post of Vice-Principal.

6. Although, the learned counsel of the applicants denied existence of any promotional avenues for EVGCs, the respondents have produced for our perusal Recruitment Rules for the post of Guidance Officer in the Directorate of Education. This is a selection post for which the feeder category is "Counsellor Incharge, Educational and Vocational Guidance, Bureau with 8 years' service in the grade rendered after appointment thereto on a regular basis".

7. We are in agreement with the learned counsel of the respondents that normally a post cannot be included in two feeder cadres for purpose of promotion to another cadre. We also place reliance on order dated 4.7.2000 of the Principal Bench of Central Administrative Tribunal in OA-2638/96 Ms. Yasholini Ayaram & Another Vs. Govt. of NCT of Delhi & Others wherein EVGCs were not found eligible for

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consideration for promotion to the post of Vice-Principal.

8. Having regard to the above reasons and discussion, the OA is dismissed being devoid of merit.

No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Member (A)

cc.