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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1939/99

New Delhi, this 22nd day of May, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Radha Ballabh Sharma
122, Delhi Admn. Colony
Karkardooma, New Delhi-92 .. Applicant

(By Smt. Sunita Kani, Advocate)

versus

1. Govt. of NCT of Delhi
through its Secretary/Education
Old Secretariat, Delhi
2. Director of Education
Old Secretariat, Delhi .. Respondents

(By Shri Vijay Pandita, Advocate)

ORDER

Hon'ble Smt. Shanta Shastry

Applicant's prayer is that he should get promotion as Post Graduate Teacher (Drawing) {PGT(Drwg.)}, for short} alongwith all the promotional financial benefits from the year 1974 as granted to Shri K.L.Talwar in OA 2181/97 decided on 29.6.99.

2. The applicant was earlier an employee of the Municipal Corporation of Delhi (MCD, for short) and was absorbed in Delhi Administration after the higher secondary schools of MCD were closed and transferred to Delhi Admn. w.e.f. 1.6.70. MCD employees who were transferred to Delhi Admn. were placed in a separate cadre called 'Special cadre' under the Delhi Admn. with the same terms and conditions of service as applicable to Delhi Government employees of the same categories and the employees of Delhi Admn. were placed in Administrative Cadre.

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3. The Government of India, Ministry of Education and Social Welfare informed Delhi Admn. vide their letter dated 31.5.73 that Central Board of Secondary Education (CBSE, for short) had upgraded the minimum qualification to be possessed by the teachers teaching Class XI in higher secondary schools in all the subjects including Drawing & Geometrical & Mechanical drawing. It was further stated that teachers who do not possess the minimum qualification prescribed by the CBSE would not be considered as qualified to teach Class XI in higher secondary schools affiliated to CBSE. Government of India also granted post-graduate scale in the subjects of drawing and Geometrical & Mechanical drawing to those people who possessed minimum qualification i.e. post-graduation degree and only they could teach Class XI. The Recruitment Rules for the post of PGT(Drwg) were framed and notified on 27.2.93. According to these rules, only senior Drawing Teachers in the pre-revised scale of Rs.250-500 possessing post-graduation qualification prescribed for the direct recruitment with 5 years regular service in the grade were made eligible to be considered to be placed in the scale of PGT(Drwg.) and to teach Class XI.

4. Many teachers who had been earlier teaching Class XI in the higher secondary schools of the Delhi Admn. did not have the minimum qualification of post-graduation degree. Being aggrieved, some of these teachers filed petitions in the High Court of Delhi through one Shri M.L.Sharma (CWP 1479/73). The same was decided on

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20.12.85 by the High Court allowing the petition. The High Court held that "the pay scale of the teachers in the common cadre of senior grade teachers may not be different and if higher scale is given to teachers in the senior grade the petitioner who was in the senior grade would be entitled to get the higher scale of pay". Thereafter Shri Sharma was upgraded in the scale of PGT (Drwg). Following this, some more TGT drawing teachers also filed similar cases in the High Court. They were transferred to the Tribunal and were decided similarly by the Tribunal. An SLP was filed in the Supreme Court in the case of T.D.Sapra & Ors. vs. Lt. Governor of Delhi & Ors. against the decision of the Tribunal in T.75/85 dated 23.2.87. The same was dismissed by the Supreme Court by order passed on 22.5.87. Thus these judgements have attained finality. More such applications were filed even in this Tribunal and the decision was the same. This Tribunal decided OAS No.1328/95, 1749/95, 651/95 and 2181/97 by a common order on 29.6.99. Applicant has relied upon this order in respect of Shri K.L.Talwar (OA 2181/97).

5. In all the above OAs the issues raised, legal points involved and the reliefs claimed were identical. Applicant being similarly placed therefore represented to the respondents to grant him the benefit of this judgement. However, he did not meet with any success.

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6. It is the applicant's case that he belongs to the same category as Shri Talwar. In fact he is senior to Shri Talwar being at Sl.No.31 in the seniority list whereas Shri Talwar is at Sl.No.115 in the said list. His case is identical.

7. The learned counsel for the respondents has taken the stand that though several OAs have been decided by this Tribunal on an identical issue, still each case is to be decided on its own merit. According to the learned counsel, full facts were not brought to the knowledge of Supreme Court while deciding the SLP(C) No.7882/87 mentioned above. Further, the applicant cannot be said to be similarly placed to the applicants in the petitions filed in the High Court of Delhi and other cases filed in this Tribunal because he was transferred to Delhi Admn. in 1970 and he was in junior grade at that time whereas the feeder cadre for the post of PGT (Drwg) is senior grade. As such the applicant is not entitled for promotion to PGT (Drwg) in 1974. Learned counsel further stated that the respondents have challenged the judgement in the case of Shri Talwar in OA 2181/97 by way of Review Application and the same is pending. According to the respondents, the case of Shri Talwar was not decided on merits.

8. Respondents have also taken the plea that application is time-barred, further the Tribunal has no jurisdiction to grant the benefit to the applicant from 1974 when the Tribunal was not in existence. Further, condonation of delay is not possible as the matter relates to prior to 1982.

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9. Learned counsel for the applicant has refuted the respondents' point regarding the applicant being in junior grade and not in the senior grade. He submits that after the teachers of MCD were absorbed in Delhi Admn., the earlier Grade 11 in the scale of Rs.220-430 was raised to Rs.450-750, while raising the PGT scale from Rs.330-560 to Rs.550-900. So even on merits the applicant would be entitled to being placed in PGT (Drwg) scale from 1974 as per teachers of Administrative Cadre of Delhi Admn.

10. We have heard both the learned counsel for the applicant as well as the respondents and have also gone through the various judgements cited by the applicant namely judgement of the High Court in the cases of M.L. Sharma vs. Director of Education in CWP No.1479/73, Janak Singh vs. Director of Education in CWSP No.1480/73 and K.C.Chauhan vs. Director of Education in CWP No.1481/73, T.75/85 (CWP 1312/73) decided by the Tribunal on 23.3.87 and other OAs including the case of Shri Talwar (supra). We are satisfied that the case of the applicant is squarely covered by these judgements. The issues redgarding limitation and jurisdiction have also been already considered in the earlier OAs and the applicant also made representations to the respondents. We, therefore, overrule these objections. Again the contention that the applicant was in junior grade is not tenable as admittedly the applicant is at Sl.No.31 while Shri Talwar is at Sl.No.115 of the seniority list. In our view, the applicant cannot be denied the benefit of the aforementioned judgements of High Court as well as

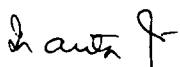
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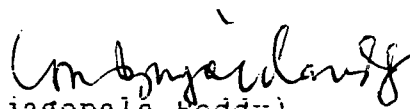
this Tribunal. It is a settled law that persons similarly situated ^{to} the beneficiaries of the judgements are to be extended the same. The applicant is identically placed and it is not proper that every aggrieved employee should be driven to approach the court when the cause of action is identical.

11. Even though the respondents state that full facts were not brought to the notice of the Supreme Court in the SLP, they have complied with the judgements and though the order dated 29.6.99 in OA 2181/97 has been challenged through Review Application, so long as these orders are not quashed, they remain in force and therefore we are bound to follow the judgements of this Tribunal.

12. In the facts and circumstances of the case, we allow this OA and direct the respondents to grant the benefit of promotion to the applicant with effect from the date his juniors were given promotion to the post of PGT(Drwg). In the matter of arrears, however, the applicant will be entitled for the same only for one year prior to the filing of the OA.

13. With these observations, the OA is disposed of, but without any order as to costs.


(Smt. Shanta Shastri)
Member(A)


(V. Rajagopala Reddy)
Vice-Chairman(J)

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