

New Delhi this the 15th day of March, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)

Shri Khem Chand,  
S/o late Shri Karam Chand,  
R/o B-2-B, Janakpuri,  
New Delhi.

...Applicant

(By Advocate Shri M.K. Gaur, proxy for Sh. B.S. Mainee)

-Versus-

Union of India through:

1. The Secretary,  
Ministry of Human Resource Development,  
Department of Education,  
Government of India,  
Shastri Bhavan,  
New Delhi.
2. The Lt. Governor,  
Government of NCT of Delhi,  
Raj Niwas, Delhi.
3. The Director of Education,  
Govt. of N.C.T. of Delhi,  
Old Secretariat, Delhi.
4. The Education Officer,  
Distt. South West,  
Vasant Vihar,  
New Delhi.

...Respondents

(By Advocate Shri Vijay Pandita, though none appeared)

O R D E R (ORAL)

None appears for the parties either in person or through their counsel except the aforesaid proxy counsel to inform that the Advocates are abstaining from Court. Since this is admitted case and the pleadings are complete, I dispose of the case on the basis of the available pleadings on record even in the absence of the parties under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.



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2. The applicant was appointed as an Assistant Teacher in 1961 and was granted selection grade of Rs.530-630 in 1976. Thereafter he was promoted as TGT on 16.11.1983 in the scale of Rs.440-750. After the Fourth Pay Commission's recommendations have been accepted by the Government the scales of TGT was revised to Rs.1400-2600 in the initial grade. The senior grade scale is Rs.1640-2900 and the selection grade is Rs.2000-3500. According to the applicant he was entitled to be given the senior scale of pay after 12 years of service as TGT which includes the service rendered in the erstwhile selection grade as per the notification dated 28.3.88. Accordingly, the applicant was given the ~~selection~~ <sup>Senior</sup> grade by order dated 19.10.95 (Annexure A-5). His pay was accordingly fixed and he was also given an amount of Rs.10,772/- against arrears. The applicant retired from service on 31.1.98. The impugned orders are passed on 8.1.98 seeking to withdraw the benefit of promotion in the scale of Rs.1640-2900 on the ground that the said scale was erroneously awarded to him. The alleged over-payment is also sought to be recovered from the applicant. The applicant filed the present OA seeking to challenge the order dated 8.1.98.

3. It is the case of the respondents that by mistake the applicant was given the ~~selection~~ <sup>Senior</sup> grade. It is their case that the applicant did not work for 12 years in the post of TGT to qualify for the senior scale of TGT as he was promoted to the post of TGT w.e.f. 16.11.83 only and 12 years of service as TGT would be completed on 16.11.95. But the applicant was erroneously granted senior scale of TGT w.e.f. 15.11.88, the counting of qualifying

*CAJ*

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service starts from the date of promotion as TGT, not from the date of grant of selection grade in the lower post, i.e., Assistant Teacher.

4. I have given careful consideration to the pleadings and the points raised in the case. In the impugned order dated 8.1.98 no reason has been assigned as to the nature of the mistake or error that has been committed by the respondents. Admittedly, the applicant's pay has been revised on the premise that he has completed 12 years of service in the scale of Rs.1400-2600 from 15.1.76 to 15.1.88 and granted the senior scale of Rs.1640-2900 in their proceedings dated 19.10.95. The amount of Rs.10,772/- was also paid to the applicant towards arrears. It is not shown in the impugned order how the pay of the applicant has been wrongly fixed, though, it is stated in the reply that the applicant having not completed 12 years in the post of TGT he was not entitled for the senior scale. In an identical matter in OA-196/97 Ram Narain Singh & Ors. v. Union of India & Ors. the Tribunal in its order dated 13.8.98 allowed the OA, holding that the impugned order was vitiated because of non-issuance of notice. This question is also well settled by a catena of decisions vide Shyam Babu Verma & Ors. v. Union of India & Ors. (1994) 27 ATC 121 and Sahib Ram v. State of Haryana, (1994) 28 ATC 747. I am, therefore, of the view that in order to conform to the principles of natural justice the respondents ought to have issued a notice before passing the impugned order to revise the pay already fixed and to seek to recover the amounts already paid.

*[Handwritten signature]*

5. In the circumstances, the OA is allowed. The impugned order is quashed and the respondents are directed to issue notice to the applicant and after considering the representation made by the applicant, pass appropriate orders. The amount already recovered is directed to be refunded pending further orders that may be passed by the respondents. It is, however, made clear that no opinion has been expressed by me as to the validity of the order passed by the respondents on its merits. No costs.

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

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