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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

2658/1999
OA No. 2658/1999

NEW DELHI, THIS THE 9TH DAY OF AUGUST, 2000.

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. V.K. MAJOTRA, MEMBER(A)

Shri Ram Kishan Rohilla
S/o Shri Mangat Ram
R/o 223/1, D12 Sector 7
Rohini, Delhi-110085

...Applicant

(BY SHRI M.K. GUPTA, ADVOCATE)

Vs.

1. Government of National Capital Territory of
Delhi, through its Chief Secretary
5, Sham Nath Marg
Delhi-110054.

2. Director of Education
Govt. of N.C.T. of Delhi
Old Secretariat
Delhi-110054.

...Respondents

(BY SHRI RAM KANWAR, ADVOCATE)

ORDER (ORAL)

JUSTICE ASHOK AGARWAL:-

Applicant had earlier filed OA No. 2923/1992 impugning the provisions of the Recruitment Rules which confined the promotion of TGTs Indian Languages to PGTs only in those languages. When the aforesaid OA was taken up for hearing on 8.1.1998, a statement was made that notification dated 26.2.1996 has been issued whereby the aforesaid provisions contained in the Rules were withdrawn. Aforesaid OA was, therefore, disposed of as having become infructuous. Respondents have thereafter issued a notification on 4.11.1999 amending the aforesaid Rules whereby the initial Rules restricting the promotion of TGTs of Indian languages to PGTs only in those languages have been re-introduced. Withdrawal of the said provisions from the Rules when the earlier OA was filed and reintroducing the same after the disposal of the OA, according to the applicant, is nothing

short but a fraud on the Tribunal. Applicant in the circumstances, has sought directions for quashing the later notification of 4.11.1999 whereby the amendments brought about by notification of 26.2.1996 have been annulled. He has made a further prayer that his claim for promotion should be considered by the Rules as amended by notification dated 26.2.1996 as his claim for promotion had arisen prior to 4.11.1999 when vacancies to the post of PGTs (English) to which he is an aspirant occurred. It is now well-settled that selections to the posts (whether by way of direct recruitment or promotion) are determined in accordance with law in force on the date, the vacancy arose (see *Y.V.Rangaiah v. J.Sreenivasa*, AIR 1983 SC 852, *P. Murgesan v. State of Tamil Nadu*, 1993(2) SCC 340, and *State of Rajasthan v. R.Dayal*, 1997(10) SCC 419).

2. As far as the prayer for striking down the Rules brought about by amendment of 4.11.1999 is concerned, respondents have, inter-alia averred as under:-

"The said amendment dated 26.2.96 created a number of difficulties in implementation of the recruitment rules as under which were not probably foreseen earlier.

1. The amended recruitment rules violate the orders of the Government of India that TGT in their own subjects and the language teachers in language concerned alone should be promoted.

2. If the cadres are combined, it would create enormous administrative problems like fixing up of inter-seniority.

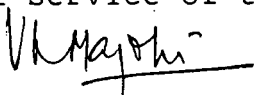
3. In several cases selection grade and selection scale have been given to teachers who joined later than those in other cadres. If the cadres are merged, the pay of those senior will have to be stepped up leading to a time consuming exercise and substantial financial liability on the Government.

4. Merger of cadres will also result in vast litigations."

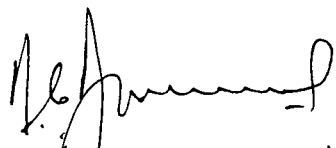
3. In our judgement, the power of the Legislature to legislate is paramount. The wisdom behind the same cannot be questioned in courts of law. It is in the circumstances difficult to question the power of the Legislature to ^{being} brought about amendments in the Recruitment Rules. No directions in the circumstances can be given for striking down the amendments brought about on 4.11.1999.

4. Applicant, however, in our view is entitled to the second prayer made by him, namely his right for being considered for promotion based on 1996 Rules. Applicant is an aspirant for promotion to the grade of PGT (English) in respect of vacancies arising prior to 4.11.1999. He in the circumstances, we find is entitled for being considered for promotion to the grade of PGT (English) under the Rules of 1996. Applicant we find has done his MA in English and in addition he is also MA in Hindi. He has been teaching English to 9th and 10th classes for the last 17 academic years. In the circumstances, applicant would justifiably be entitled to be considered for promotion to PGT (English) based on 1996 Rules.

5. Present OA is accordingly partly allowed. The prayer contained for striking down the notification dated 4.11.1999 is rejected whereas the prayer for consideration of the applicant for promotion as PGT (English) under the Rules issued vide notification dated 26.2.1996 is allowed. Respondents are accordingly directed to consider the applicant for promotion to the post of PGT (English) by applying the Rules as amended by notification dated 26.2.1996 and by ignoring the amendments brought about by notification dated 4.11.1999. This be done expeditiously and within a period of three months from the date of service of this order. No costs.


(V.K. MAJOTRA)
MEMBER (A)

sns


(ASHOK AGARWAL)
CHAIRMAN