

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2767/1999

New Delhi, this the 1st day of May, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Sushil Chaudhary
R/o B-2B-101, Janak Puri
NEW DELHI.

...Applicant

(By Advocate Shri Gagan Gupta)

V E R S U S

1. Govt. of NCT of Delhi
Through : Chief Secretary
5, Sham Nath Marg
Delhi - 110054.
2. Director
Directorate of Education
Old Secretariat
Delhi.
3. Joint Director (Adm.) (Estt.II)
Department of Education
Old Secretariat
Delhi.
4. Satya Dev Sharma
Presently working as Vice-Principal
C/o Director, Directorate of Education
Old Secretariat, Delhi.

...Respondents

(By Advocate : Shri Vijay Pandita, for respondent 1-3.
(By Advocate : Shri D.R.Gupta, for respondent 4.

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

The applicant has impugned the action taken by the Govt. of NCTD/Respondents 1-3 in fixing his seniority below that of respondent-4, as a result of which, according to him, he has not been considered for promotion to the post of Vice-Principal in February 1999 when respondent-4 was so promoted vide order dated 19-3-1999.

2. The Tribunal vide order dated 29-3-2001 had noted that respondents 1-3 had issued a corrigendum dated 22-11-2000 by which the seniority of

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respondent-4 has been changed from Sl.No. 287 to 378A, whereas in the case of the applicant, he has been shown at Sl. 314A even though his name has not been shown in the final seniority list dated 10-2-1999. The respondents have filed an additional affidavit clarifying the position. They have submitted a copy of the Minutes of the Staff Selection Board Meeting held on 8-4-1981 for selection of the candidates to the posts of PGT Biology (Male). The Board had, after interviewing the eligible candidates recommended a panel of three persons against two vacancies. In the panel they have placed the applicant at Sl. No.1 and respondent-4 at Sl. No.2 in accordance with the marks obtained by them, namely, 72 and 69 respectively. The official respondents have clarified in their additional affidavit that the final seniority list of PGTs (Male) appointed between January 1976 to March 1990 was issued on 10-2-1999, where respondent No.4 was shown wrongly as having joined the post of PGT (Male) on 8-4-1981, which is the date of the Selection meeting. They have submitted that accordingly they had issued a show cause notice to respondent-4 on 24-5-2000 and he was re-assigned seniority at Sl. No. 3 vide order dated 22-11-2000, (copy placed on record) taking his date of joining as 31-12-1982. With regard to the applicant, they have further clarified that he has been assigned seniority No. 314A on the basis of his date of joining i.e. 10-9-1981 and this position has been clarified vide corrigendum dated 8-7-1999 (Annexure A-2). In the corrigendum issued on 8-7-1999, the

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respondents have shown the applicant's seniority as "00314-A" with his date of joining as 10-9-1981.

3. The main grievance of the applicant in the present OA is that the respondents have taken into account the wrong seniority of respondent-4 based on the wrong date of his joining i.e. 8-4-1981 instead of 31-12-1982 which they have later corrected. The respondents had promoted him to the post of Vice-Principal and at the same time ignored the applicant's claim for consideration for such promotion, although he had admittedly been placed in the seniority list above respondent-4 and had also joined as PGT (Biology) earlier to him. Shri D.R.Gupta, learned counsel for respondent-4 has submitted that the corrective action taken by the official respondents has been challenged by respondent-4 in a separate application (OA 2540/2000). In that application an interim order has been passed by the Tribunal dated 5-12-2000, restraining the official respondents from reverting him from the post of Vice-Principal. That OA is sub-judice.

4. From the facts mentioned above, it is therefore, noted that the reliefs prayed for by the applicant in paragraph 8 (i) & (ii) have been granted to the applicant by the respondents during the pendency of the present application, by issuing the corrigendum to the seniority list dated 8-7-1999 and 22-11-2000. Accordingly, the only other remaining prayer of the applicant is for a direction to the respondents to review the case of promotion of the eligible persons to the post of Vice-Principal,

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especially from the date when his junior has been so promoted. Taking into account the above facts and circumstances of the case, the date of promotion of respondent-4 as Vice-Principal which, according to the respondents, has been based on a wrong date of his joining, cannot give any benefit to the applicant for similar promotion from 8-4-1981. However, the applicant would be entitled to be considered for promotion to the post of Vice-Principal from the date when any of his junior has been considered and promoted to the post of Vice-Principal.

5. In the facts and circumstances of the case, the OA is disposed of with following directions :-

Respondents 1-3 are directed to consider the case of the applicant for promotion to the post of Vice-Principal, taking into account the revised seniority list issued by them along with the aforesaid corrigenda. This shall be done within two months from the date of receipt of a copy of this order. If he is found fit for such selection as Vice-Principal, he shall be entitled to all consequential benefits from the date his junior has been so promoted. We make it clear that the consequential benefits shall include seniority and back wages from the due date in accordance with law, rules and instructions.

No order as to costs.

Govindan S. Tamai
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/vikas/