

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA. 875 of 1999

New Delhi this the 6th day of September, 1999

HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN(A)

HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. Ms. Anubha Sharma
Age 29 years
D/o Sh. P.D.Sharma
P.G.T. S.K.V. Narela no.1
Delhi - 40

R/o 1453, Tri Nagar
Delhi - 35
2. Ms. Achla
Age 26 years
W/o Shri Vikaspuri,
T.G.T. Govt.Sr.Sec.School,
~~Mukherjee Nagar, New Delhi-17.~~
R/o B-209, Prabhat Vihar
Delhi.
3. Ms. Sawtanter Kumari
Aged 33 years
D/o Shri K.L.Chhabra
P.G.T. G.B.S.S.School,
A.P.Block , Shalimar Bagh,
Delhi - 52

R/o 106, Pocket A2, Sector-3,
Rohini, Delhi - 85
4. Ms. Seema Kohli
Age 25 years,
D/o Shri H.R.Kohli,
T.G.T. S.K.V.Outabgarh,
Delhi

R/oT-370, Hansapuri,
Trinagar, Delhi - 35.
5. Ms. Krishna Sharma
Age 30 years
W/o Shri G.L.Sharma
P.G.T. S.K.V.Outabgarh, Delhi

R/o 9992/2, St.no.1
Sarai Rohilla,
New Delhi - 5

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6. Rebae Kapoor,
Age 25 years
D/o Shri G.R.Kapoor
T.G.T. S.K.V. Gatabgarh,
Delhi - 39

R/o 1/78, Sunder Vihar,
New Delhi - 87

7. Ms. Vijay
Age 28 years
W/o Shri Rohit Sharma
T.G.T.
Govt. Boys Sr.Sec.School,
Dhakha, Delhi - 9.

R/o 991, Dr.Mukherjee Nagar,
Delhi - 9

8. Ms. Sadhana
Age 26 years
W/o Shri Vishal Sharma
T.G.T.
Sarvodaya Co-ed.Vidyalaya
New Police Lines Camp,
Delhi - 9

R/o B-6/76, Sector-5,
Rohini, Delhi - 85

9. Ms. Anita Mishra
Age 31 years
D/o Shri M.C. Mishra
T.G.T. G.G.S.S.S. Anand Vas
Delhi - 34

R/o E-973, Saraswati Vihar,
Delhi - 34.

10. Ms. Rekha
Aged 28 years
W/o Shri A.K.Agarwal
T.G.T. G.B.S.S.School, Phase II
Ashok Vihar,
Delhi - 52

R/o A-14/A, Nanda Road,
Adarsh Nagar, Delhi - 33.

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11. Ms. Lakshmi Kumari
Age 28 years
W/o Shri Sushil Sharma
T.G.T.
S.K.V. Adarsh Nagar, Delhi.

R/o 127, Vill. Budhpur,
P.O. Alipur, Delhi - 36

12. Shri Shankar Saroop,
Age 29 years
S/o Shri R.S. Bhartiya
T.G.T.
G.B.S.S. School no. 3,
West Patel Nagar,
New Delhi.

R/o A-165, Sector -26
Noida.

13. Ms. Urmil Kapoor,
Age 35 years
D/o Shri R.P. Kapoor,
P.G.T.
G.B.S.S. School, no. 3
West Patel Nagar,
New Delhi.

R/o A-3/217, Janakpuri,
New Delhi - 58

14. Ms. Anju Batra
Age 31 years
W/o Shri Harish Batra,
T.G.T. G.B.S. School,
Sainik Vihar,
Delhi.

R/o 1846, Punjabi Mohalla,
Narela, Delhi - 40.

15. Ms. Dolly Vij
Age 23 years
D/o Shri O.P. Vij
T.G.T. S.K.V. Pooth Khurd,
Delhi.

R/o 8, New Colony,
Narela,
Delhi - 40

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16. Ms. Rekha Khanna
Age 23 years
D/o Shri R.C.Khanna,
T.G.T. G.G.S.S.School,
Bankner, Narela,
Delhi - 40

R/o T 227A, Indira Colony,
Narela, Delhi - 40
17. Ms. Geeta Joshi
Age 23 years
D/o Shri M.N.Joshi,
T.G.T. G.B.S.S.School,
A-Block, Jahangirpuri,
Delhi.

R/o 11, Type-3
DESU Colony, Narela,
Delhi - 40
18. Ms. Sarita
Age 21 years
D/o Shri Bhagwan Das
T.G.T, Govt.Co-ed Sec.School,
Begumpur, Delhi.

R/o E-668, Mongolpuri,
New Delhi - 83
19. Ms. Gita Rani
Age 37 years
D/o Shri Madan Gopal
P.G.T. G.B.S.S.School,
Ranjit Nagar, New Delhi.

R/o C-23, Radhey puri,
Delhi - 51
20. Ms. Usha Devi
Age 26 years
W/o Shri Ravinder Singh
T.G.T.,
S.K.V. Bawana, Delhi - 39

R/o 33, Village Jindpur,
P.O. Muhamedpur,
Delhi - 36
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21. Ms. Shashi Bala
W/o Dr. S.K. Dabas
R/o 300, Village & P.O. Rani Khara
Delhi-81.
22. Ms. Om Wati
W/o Shri DEvender Kumar
R/o Rajender Park, Nangloi,
Delhi-41.
23. Shri Shivender Kumar Jha
S/o Late Shri Ramanugrah Jha
R/o Room No.24, PG Men's Hostel,
Delhi University,
Delhi.
24. Ms. Rajni Gupta
D/o Late Shri R.D. Gupta
R/o J-84-D LIG Flats,
Ashok Vihar, Phase-I,
Delhi-52. ..Applicants

By Advocate Shri K.N.R. Pillai. with Sh. H.B. Mishra.

Versus

Government of NCT of Delhi
Through:

The Director of Education, Delhi,
Old Secretariat,
Delhi.

..Respondents

By Advocate Shri Vijay Pandita.

ORDER

Hon'ble Shri Kuldeep Singh, Member (J)

In this OA, the applicants, numbering 24 as mentioned in the title, are aggrieved by the action on the part of the respondents for their failure to grant continuity of service to the applicants although the vacancies against which they were stated to have been appointed are

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continuing. Continuity is being denied as in the ~~A~~ appointment letter there was a condition that the appointment shall stand automatically terminated on 31.3.99.

2. It is further pleaded that the Government of NCT of Delhi have a large number of vacancies of Teachers in their schools of different levels such as PGT, TGT etc. and the Government being unable to fulfil the same, have issued a letter of appointment of the type of Annexure A-1. It is further stated that conditions in the appointment order were quite harsh and there is a catena of judgments that such type of conditions cannot be imposed. The applicants have prayed for a direction to the respondents that they should be granted the same pay scales and allowances and also the same benefits as admissible to teachers appointed on regular basis and the breaks in their service may be treated as dies non and they should be treated as having continued in service from the date of first appointment and they shall be so continued till regular appointments are made. They have further prayed that when regular recruits become available, they should first be posted in the vacant posts and only after all the vacant posts are filled, they should be replaced by regular recruits. Such replacement should be in the reverse order of length of total service. Those who are so replaced may be offered vacancies if any available in other schools under the respondents. They have further prayed for a direction that if the applicants apply for age relaxation, they should be given age relaxation to the extent of the service put in on contract basis.

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3. This application was contested by the respondents and stated that this Tribunal cannot grant the relief of reinstatement when the applicants are already out of service and status quo order was granted in the month of April, 1999. It is also pleaded that no extension can be granted since applicants are merely contract employees and not regular employees and the appointments were made de hors the rules. It is also pleaded that it is the administrative function of Government to look into the interest of schools as well as the necessity from time to time. Only 3% of staff was appointed on contract basis. Since the departments does not require their services, so their appointments should not be extended.

4. We have heard the learned counsel for the parties and have gone through the records.

5. At the outset we may mention that similar OAs were also filed by various other Teachers - OA 754 and other connected OAs (Vijay Kumari and Others). The facts of those OAs and the present OA are totally identical and the contentions raised by the respondents were duly considered in the above referred OAs. In those OAs, the following reliefs were granted:-

"(A) Applicants shall be re-engaged on the present posts forthwith till regular candidates duly selected by DSSSB/or appropriate authority are available to replace the applicants.

(B) Those selected regularly shall first be posted in the existing vacant positions and only if enough vacant posts are not available, they should be posted against the posts held by ad hoc appointees, Replacement of

the latter should be on the principle of last come first go. Those so displaced should be accommodated in vacancies that may be existing in other districts.

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- (C) The ad hoc appointees shall be paid minimum pay in the pay scale of regular teachers plus DA in terms of law laid down by Hon'ble Supreme Court in the case of Daily Rated Casual Labourer Vs. UOI & Ors. (1988 (1) SCC 122).
- (D) No ad hoc appointee shall be replaced by any newly appointed ad hoc employee.
- (E) Those of the applicants who have applied or may apply for regular selection, necessary relaxation in age shall be given to the extent of the period of service put in by them."

6. Before the orders were passed in OA 754 of 1999, another batch of OAs were decided (Veena Anand and Others). The only difference on facts in both these cases was that in the case of Veena Anand and others, the applicants whose short term appointment was to lapse by 31.3.99, had filed their OAs before the expiry of 31.3.99 and had obtained an order in their favour regarding maintenance of status quo and they had continued as Teachers in various schools of the respondents-department. In the case of Veena Anand and others also the OAs were finally allowed and similar relief was granted as granted to the applicants in OA 754/99 and other connected matters. Therefore, we cannot take any different view in the present OA and as per the facts and circumstances of OA 754/99 and other connected OAs, applying the same yardstick, we allow the present application and pass the following directions:-

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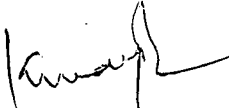
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- (B) Those selected regularly shall first be posted in the existing vacant positions and only if enough vacant posts are not available, they should be posted against the posts held by ad hoc appointees. Replacement of the latter should be on the principle of last come first go. Those so displaced should be accommodated in vacancies that may be existing in other districts.
- (C) The ad hoc appointees shall be paid minimum pay in the pay scale of regular teachers plus DA in terms of law laid down by Hon'ble Supreme Court in the case of Daily Rated Casual Labourer Vs. UOI & Ors. (1988 (1)SCC 122).
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(KULDIP SINGH)
MEMBER (J)


(S.R. ADIGE)
VICE CHAIRMAN(A)

Rakesh