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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1336/98

New Delhi this the 4th day of August, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

1. Sh. Ved Ram Singh,
S/o Sh. Chaman Singh,
R/o 2982-83, Jivan Niwas,
Arya Pura, Subzi Mandi,
Delhi.
2. Sh. Ramesh Chand Bhaskar,
S/o Sh. Satvir Singh,
F-77, Kondli,
Delhi-96.
3. Sh. Birendra Kumar,
S/o Sh. Charan Singh,
R/o C-149, Gali No.7,
Mukand Vihar, Karawal Nagar,
Delhi-94.
4. Sh. Amar Bahadur,
S/o Sh. Kalaka Prasad,
H.No.K 12, Gali No.11,
Braham Puri, Delhi-53.
5. Sh. Mahipal Singh,
S/o Sh. Vidhi Prakash,
R/o RZ 684/7A, Indra Park,
Palam Road, New Delhi.

Applicants

(through Sh. S.K. Shukla, advocate)

versus

1. Director of Education,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi-54.
2. The Lt. Governor,
Govt. of NCT of Delhi,
Raj Niwas, Delhi-54.

Respondents

(through Sh. Rajinder Pandita, advocate)

ORDER(ORAL)

Hon'ble Sh. S.P. Biswas, Member(A)

Applicants, 5 Trained Graduate Teachers (TGT
for short) are aggrieved by the orders dated 9.2.98
(Annexure A-1); 29.12.97 (Annexure A-2) and 28.8.97

(Annexure A-3). By A-1, the applicants have been informed that the selection tests for appointment of T.G.T. shall be conducted only for those applicants who fulfil other eligibility conditions as per recruitment rules. The applicants, being part time teachers, do not fulfil the eligibility conditions laid down in the recruitment rules. Consequently, they are before us seeking relief in terms of their regularisation/absorption as full time teachers with effect from the dates they initially joined the services.

2. For appreciation of the legal issues involved in this case, brief description of the background facts will be necessary. All the applicants joined the services under Respondent No.2 on different dates between 1987-92 as part time teachers. The jobs and responsibilities of these teachers are set out in para 4(a) of the O.A. The catalogue of requirements they are to fulfil while continuing to work as part time teachers are also available in para 4(b) of the O.A. Their joint representation dated 7.1.98 addressed to Director of Education regarding appointment to the post of TGT and issue of admit cards to allow them to take selection test held on 17.1.98 was rejected for reasons mentioned aforesaid.

3. The basis on which the applicants would seek regularisation in their present post is that

they are still continuing to work as Part Time Trained Graduate Teachers under the Directorate of Education uninterruptedly for 7-12 years as of date.

4. That apart, present objection of the respondents that the applicants have 45% marks (overall) is meaningless since the applicants are existing employees and to raise the bogie of minimum marks at this stage does not reconcile in terms of the judicial pronouncement of the Apex Court in the case of Subhash Chandra Sharma Vs. Director of Education (Civil Writ No. 1390/90) decided on 30.4.1991. The applicants would contend that the decisions of the Apex Court support their claim fully.

5. The learned counsel for the applicants also cited the judgement of the Apex Court in the case of Karnataka State Private College Stop-Gap Lecturers Association Vs. State of Karnataka & Ors. (JT 1992(1) SC 373) in support of his contention for regularisation/continuation of services of the applicants.

6. The respondents have controverted the claims of the applicants. It has been submitted that the applicants were appointed as Part Time Teachers on a fixed salary of Rs.500 P.M. and as per terms in the appointment order, no claim for regular appointment/regularisation/absorption against the post in the Directorate of Education could be

entertained. The applicants were engaged to meet a specific need and to fulfil that the respondents do not require the services of full time teachers on regular scale. The respondents are also not in a position to utilise them since they were not engaged pursuant to the procedure laid down in the recruitment rules.

7. We are required to adjudicate the applicants claim for regularisation. The position of law in respect of regularisation is well settled. Regularisation can be made pursuant to a Scheme or an order in that behalf against a regular vacancy. Merely working on a post for a number of years on ad hoc basis does not vest the person with the right to get regularised on a post which is required to be filled up by regular recruitment under statutory rules. An employee seeking regularisation must have the requisite qualification and also fulfil ^{other} ~~the~~ ^{any} ~~any~~ stipulations under the relevant recruitment rules/procedure for selection. If any authority is needed for this proposition, it is available in Mukesh Bhai Chhotu Bhai Patel Vs. Joint Agricultural & Marketing Advisor, Govt. of India & Ors. (AIR 1995 SC 413). We do not, however, have the details regarding the availability of regular vacancies wherein the applicants could be considered. In contest of this legal position, we were told that the claims of similarly placed persons were examined by this Tribunal in OA-1879/94 decided on 31.1.97. That

was the case where the Tribunal examined the similar pleas of an association of Part Time Teachers claiming regularisation on the strength of judgement of the Apex Court in Subhash Chandra Sharma's case (supra). This Tribunal in its order dated 31.1.97 in the aforesaid O.A. decided as following:-

"The respondents ought to consider the applicants also for regularisation in the vacant posts of teachers after holding suitable selection test as they have held in the other cases, with relaxation of age, if necessary, as they are already in employment. In other words, the respondents ought not to discriminate against the applicants, when in all other aspects they fall on all fours with the applicants in Subhash Chandra Sharma's case (supra). The respondents shall hold the selection test for regularisation of the applicants within a period of three months from the date of receipt of a copy of this order and in the meantime the applicants shall be continued on the same terms and conditions. Those who are not successful in the test may be continued in service provided there are vacancies for them."

8. We also find that the facts and claims of the applicants herein are squarely applicable to those in OA-1879/94. It is not in doubt that the applicants are continuing with the respondents in their present jobs for more than 7-8 years. It is not the case of the respondents that regularly selected candidates are available to replace the applicants. It is also not the case of the respondents that the applicants do not possess the requisite qualification or are not functioning to the satisfaction of the authorities concerned.

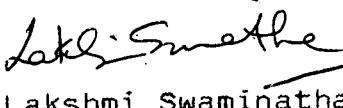
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9. In the light of the decision of the Apex Court and also the decision of this Tribunal in the aforesaid O.A., it will be only appropriate for us to direct the respondents to consider the claim of the applicants for regularisation in the vacant post of teachers after conducting suitable selection test as they had held earlier in similar cases. The applicants can also be provided with relaxation of age, if necessary, since they are already in employment. The respondents are directed to complete the process of selection for regularisation of the applicants within a period of 3 months. The applicants shall, however, be continued in the present post on existing terms and conditions.

10. In the result, the application is disposed of as aforesaid. No order as to costs.


(S.P. Biswas)

Member(A)


(Smt. Lakshmi Swaminathan)

Member(J)

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