CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1674/98

New Delhi: this the 26 day of October,1999.

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

HON'BLE MRS.LAKSHMI SWAMINATHAN,MEMBER(J)

Smt. Suman Lata Khosla,
W/o Shri J.L.Khosla,
Ex-Vice Principal,

G.G.S.S.School,

Krishna Nagar,
Delhi   -0051

R/o C-220, Anand Vihar,
Vikas Marg Extension,
Delhi-110092   .... Applicant.

(By Advocate: Shri S.S.Bhalla).

Versus

1. Lt.Governor,
   NCT of Delhi,
   Raj Niwas,
   Raj Niwas Road,
   Delhi -054.

2. Principal Secretary of Education,
   Govt. of NCT of Delhi,
   Old Secretariat,
   Delhi -054   .... Respondents.

(By Advocate: Shri Vijay Pandita)

ORDER

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

        Applicant impugns respondents' order dated
12.6.96 (Annexure-AI) and seeks promotion as School
Principal with effect from the date her immediate
junior Smt. P.M.Verma was so promoted with consequential
benefits including pay refixation as also refixation
of retiral benefits with arrears and costs.

2.   Applicant was working as a Vice Principal since

⑪

9.9.89. Respondents convened a DPC meeting to consider cases of eligible candidates for promotion as Vice Principal, which led to the issue of impugned order dated 12.6.96. Respondents state that applicant's name was not considered by the DPC for want of vigilance clearance. They state in their reply that applicant was charge sheeted in a departmental proceeding on 12.8.96;

and the Enquiry Officer submitted his report on 8.9.97, resulting in her exoneration but the communication of Govt.displeasure by order dated 29.12.97. They state further that vigilance clearance was given on 30.12.97 and applicant retired on superannuation on 31.12.97.

3.   On the date on which the DPC met to consider the cases of promotion which eventually led to the issue of impugned order dated 12.6.96 ,charge sheet had **not** been served upon applicant. Even if a decision had been taken to initiate departmental proceedings against applicant before 12.6.96., at least the sealed cover procedure should have been followed by respondents in the light of the Hon'ble Supreme Court's rulings in UOI Vs. K. V. Janakiraman 1991(2) SCALE 423 read with their rulings in DDA Vs. H.C.Khurana JT 1993(2) SC 695 and UOI Vs. Kewal Kumar JT 1993(2) SC 705 . However that was not done.

4.   Admittedly applicant was eventually exonerated in the DE and respondents cannot take the plea that applicant is not even entitled

to consideration of her case for with effect from the date her immediate junior was promoted, merely because Govt. displeasure was communicated to her.

5.   As regards the plea of respondents that the OA is hit by limitation , we note that applicant had earlier filed OA No. 97/97 which was disposed of by order dated 18.8.97 with a direction to respondents to dispose of her representations dated 5.7.96 and dated 7.10.96 by a detailed and reasoned order within 45 days from the date of receipt of that order. Liberty was given to applicant that if any grievance survived thereafter it would be open to applicant to agitate the same through appropriate original proceedings in accordance with law if so advised . In the absence of any order issued by respondents in implementation of that decision which has been shown to us, applicant has been compelled to approach the Tribunal again. The plea of limitation is therefore rejected.

6.   The OA succeeds and is allowed to the extent that respondents are directed to consider applicant's case for promotion as Principal with effect from the date her immediate junior was so considered. In case respondents find applicant fit for promotion, she shall stand so promoted with consequential benefits including pay refixation, arrears and refixation of retiral benefits which will be determined by respondents in accordance with rules, instructions and judicial pronouncements. These directions should be implemented within 4 months from the date of receipt of a copy of this order. The

prayer for interest and costs is rejected, as
we find no good grounds to grant the same.

(MRS. LAKSHMI SWAMINATHAN)   (S. R. ADIGE)
                    MEMBER (J).   VICE CHAIRAMAN (A).

/ug/