

(46)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 1776/1998

NEW DELHI THIS...^{27th}.....DAY OF JUNE 2003

HON'BLE JUSTICE SHRI V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Shri Styendra Kumar Rana,
S/o Shri Charan Singh Rana
R/o Kavita Colony, Nangloi,
Delhi.
2. Manoj Kr. Saxena, S/o Sh. Ramesh Chand Saxena,
R/o 48, Gupta Park, near Aggaral Dharamshala,
Najafgarh, Delhi
3. Sukhviri Singh Tomar S/o Sh. Gyan Singh,
R/O RZR-26,
New Roshanpura, near Holi Chowk,
Nazafgarh, New Delhi

.....Applicants

(By Sh. M L Ohri, Advocate)

VERSUS

1. Govt. of NCT of Delhi,
through Lt. Governor, Raj Niwas, Delhi.
2. Director of Education,
Directorate of Education,
Old Secretariate,
Civil Lines, Delhi

.....Respondents

(By Sh. Mohit Madan, Advocate)

O R D E R

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Heard Sh/Shri M L Ohri and Mohit Madan counsel for
the applicants and respondents respectively.

2. This matter has come before us, following its
remand by the Hon'ble High Court of Delhi, on 2.8.01,
setting aside the Tribunal's order dated 26.9.2000

rejecting the MA No.. 1504/2000 filed by the respondents, holding that the Tribunal had dealt with the case rather cursorily and that the matter called for a fresh consideration in merits. During the oral submissions on 11.12.2002. Tribunal's attention has been drawn to the decision dated 31.1.97 in OA No. 1879/94 (Govt. Adult Schools Part Time Teachers Association (Regd) & Another Vs. Director of Education, Delhi Administration and Other) the decision of the Hon'ble Supreme Court in the case of Subhash Chandra Sharma was made applicable and dated 10.9.99 in OA 2407/97 wherein the above decision was held as not applicable. On account of the contradictory decision the Bench decided to refer the issue to a Larger Bench with the following reference:

"Whether decision rendered by the Hon'ble Supreme Court in the case of Subhash Chandra sharma (supra) would apply to every person similarly situated as those applicants before the Hon'ble Supreme Court or the said decision was confirmed to those petitioners before the Supreme Court."

3. Larger Bench answered the reference with the following observations:

" 15. In the circumstances of the case, the Judgement of the Hon'ble Supreme Court has to be held as a Judgement in rem which is fully applicable to other persons who are similarly situated. As the respondents have fairly implemented the previous directions of the Tribunal in the orders dated 31.1.1997 and 11.8.1997, to raise such objections, as raised in the present application that applicants were not parties in the Writ Petition before the Supreme Court would amount to hostile discrimination and non-application of the provisions of Articles 14 and 16 of the Constitution of India. It is also

relevant to note that the Hon'ble Supreme Court has in a number of judgements deprecated the stand taken by the Government that unless parties approach the Courts/Tribunal each time they cannot be extended similar benefits. They have commented that the Government being a model employer, they should suo moto extend the same benefits as granted to similarly situated persons and should not compel those persons to knock at the doors of the Courts to seek such benefits. Therefore, in the facts and circumstances of the case and having implemented similar orders of the Tribunal which are squarely based on the Judgement of the Hon'ble Supreme Court in Subhash Chandra Sharma's case ((supra)), we see no reason why the same benefits ought not to be extended to the applicants who are similarly situated, i.e., those who have been employed by the respondents themselves as Part-time Teachers in the Adult Education School.

16. In the result, for the reasons given above, we answer the reference in the affirmative."

4. The matter has now been settled by the Full Bench that the decision of the Hon'ble Supreme Court in the case of Subhash Chandra Sharma was fully applicable to all the applicants who are similarly placed. As a matter of judicial discipline we bow to the said order of the Full Bench and hold that the respondents would have to extend the benefit of the earlier decision have to be extended to the present applicants as well who are identically placed as the applicants in Subhash Chandra Sharma's case. Accordingly we direct as below :-

The respondents are directed to consider the 3(three) applicants in this case also for regularisation in vacant posts of teachers after holding suitable selection test, subject to relaxation if necessary as they are already employed with them. This shall be done within a

period of three months of receipt of the copy of this order. In the meantime the applicants shall be continued on the same terms and conditions under which they are presently working. Those who are not successful in the test may be continued in service provided there are vacancies to adjust them in the present terms as part time teachers.

5. O.A. is accordingly disposed.

(Govindan S. Tampi)

Member (A)

Patwal/

V.S. Aggarwal

(V.S. Aggarwal)

Chairman