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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2224 of 1998

New Delhi, this the 24th day of May, 1999

Hon'ble Mr. N. Sahu, Member(Admnv)

Sh. Ashok Kumar, S/o Shri Vishnu  
Dutt, 41, Delhi Administration Flats,  
Nimri Colony, Delhi-52

- APPLICANT

**(By Advocate: Shri Jog Singh)**

Versus

1. Union of India, through Secretary,  
Ministry of Human Resource  
Development, Delhi.
2. Director of Education, Directorate  
of Education, Old Secretariat,  
Delhi.
3. Deputy Director of Education,  
Hakikat Nagar, Distt: North West,  
Delhi-9.
4. Principal, Sarvodaya Vidhalaya, New  
Police Lines, Kingsway Camp,  
Delhi-9.
5. Head of Office, GBSSS Phase II,  
Ashok Vihar, Delhi-52.
6. Principal, GBSS School, Bharat  
Nagar.

- RESPONDENTS

(By Advocate Shri S.K.Gupta)

O R D E R

By Mr. N.Sahu, Member(Admnv)

The relief prayed for in this Original Application is to direct writing a fresh ACR for the year 1992-93 so that the respondents will be in a position to clear him for the Efficiency Bar (in short 'EB') with effect from 1.1.1994 and give him all consequential benefits. In fact the grievance in this OA is directed against not clearing his EB and consequential revised fixation of pay.

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2. The dispute has arisen on the basis of the following facts. The applicant is a Trained Graduate Teacher (in short 'TGT') working at G.B.M. School, Bharat Nagar, Delhi. On 1.3.1981 the applicant was allowed to cross EB vide Order No. 65 at a basic pay of Rs.700/- and was granted one stagnation increment on 1.3.1985. On the recommendation of the Fourth Pay Commission he was given the pay scale of Rs.1400-40-1600-50-2300-EB-2600 and his basic pay was fixed at Rs.2300/- and he was also allowed to cross Efficiency Bar at Basic pay of Rs.2300/- vide order No.275 dated 20.3.1987. The senior scale of Rs.1640-2000-EB-60-2600-75-2750-EB-2900 was also granted to him w.e.f. 1.1.1986 and his pay was fixed at Rs.2600/- on 1.1.1991. He was transferred from Government Boys Senior Secondary School, New Police Lines to Govt. Boys Middle School Ranapratap Bagh vide order dated 21.4.1993, which was amended and he was posted at Govt. B.M.School, Bharat Nagar, vide order dated 7.5.1993. He was allowed to stay, however, in his old post to hand over charge of Science Laboratory.

3. The applicant's grievance was that the Principal of New Police Lines School held up the service book and other documents of the applicant and only on 6.2.1998 the same were submitted after lapse of 4 years and that too after a legal notice was served on the Principal. It was at this stage that the Principal had taken the stand that the applicant had not handed over the charge of Science Laboratory for more than 4 years which was contrary to the

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certificate issued by him on 10.5.1993. It is because of the absence of the service book the applicant's pay according to the Fifth Pay Commission could not be fixed and his arrears were also pending payment. He was denied the grant of benefits due to him on account of the recommendations of the Fifth Pay Commission. Respondent no.4 the Principal of the New Police Lines School did not also send the ACR folder of the applicant and because of this he could not be considered for crossing of EB. It is in the above background that the applicant prayed for the reliefs mentioned above at para 8 of the OA.

4. The counter states that the applicant never represented his case before the Lt.Governor of Delhi. It is also stated that an amount of Rs.42,475/- has been paid to him on account of 5th Pay Commission arrears and as a result the application has become infructuous.

5. In the rejoinder the applicant states that respondent no.4 deliberately delayed sending of the service book/ACRs to the relevant department in time. He was never issued any show cause notice or proceeded departmentally. Therefore, there was no reason why he should have been denied crossing of EB with effect from 1.1.1994. He, therefore, could not get his pay fixed in the revised pay scale of the 5th Pay Commission at the corresponding stage. The present Head of the Office fixed the pay of the applicant in October, 1998. He received arrears of pay and allowances on 13.1.1999 after deduction of

Rs.10,620/- by way of TDS and relief under Section 89(1) of the Income Tax Act was denied to him. He states that he is entitled to get the pay fixed at the stage of Rs.2825/- after crossing of EB at Rs.2750/-. He also prays for 18% interest for the delay in making the payments to him.

6. I have carefully considered the submissions. Now that the arrears have been paid, although belatedly, the main grievance of the applicant has been removed. What remains now is a dispute about fixing his pay at Rs.2825/- after crossing of EB at Rs.2750/- and consequent revision of the pay scale. Secondly, is interest payable for the delay involved in calculating the arrears and paying the same to him?

7. I am convinced respondent no.4 Principal, Sarvodaya Vidhalaya, New Police Lines, Kingsway Camp, Delhi did not act in the best of tradition and in the best of faith. There was no justification in not sending the applicant's service book. There was no justification in not writing the ACR which delayed the crossing of the EB. Now that the service book and records are available, respondent no.3 is hereby directed to go through a fresh representation to be submitted by the applicant within three weeks from the date of receipt of a copy of this order; and fix the period of delay and persons responsible for the delay. Respondent no.3 after fixing the delay should pay the applicant interest at the rate of 12% for the delay in paying the arrears to the applicant. The

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delay from the facts stated appears to be on account of administrative lapse. Interest will be calculated and paid for this period of delay within a period of 4 months from the date of receipt of the representation. Respondent no.3 should hear the applicant in fixing the period of delay and his decision on this matter will be final.

8. With regard to crossing of EB, the ACR should be got done up within a period of four weeks from the date of receipt of a copy of this order and the pay of the applicant shall consequently be refixed with all consequential benefits.

9. Respondent no.3 may fix the responsibility for the harassment caused to the applicant and, the interest payable for the delay may be recovered from the salary of the official responsible for the delay.

Narasimha  
(N. Sahu)  
Member(Admnv)

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