

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.No. 2233/98

New Delhi this the 12th day of November, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

1. Shri Surjit Singh,
S/o Shri Mahan Singh,
R/o 152-B, GGI Vikas Puri,
New Delhi-110 018.

2. Shri Beldev Singh,
S/o Shri Sardar Ran Singh,
R/o QR. No. 177/Sector II (Type II),
Sadiq Nagar,
New Delhi-110 049.

Applicant

(By Advocate: Shri George Paracken)

Versus

The Director,
Govt. of NCT of Delhi,
Directorate of Education,
Old Secretariat,
Delhi.

Respondent

(By Advocate: Shri Arun Bhardwaj)

ORDER

BY MRS. SHANTA SHASTRY, MEMBER (A)

The relief sought by the applicants in this O.A. is to declare them to be entitled to higher scale of pay from the date others belonging to the same grade have been promoted and drawing the higher pay scales and to direct the respondents to give the benefit of the judgement in CWP No. 1312/73 (T-75/85) to the applicants also and promote them to the PGT Grade with effect from 3.1.1974 with all consequential benefits.

2. The applicants two in number are Drawing teachers (Senior Grade). They figure in the common seniority list of Drawing teachers Grade II

finalised by respondent on 23.12.1981. They were teaching class XI.

3. In 1972, the Delhi Administration amended the recruitment rules of the post of PGT upgrading the minimum qualification required to be possessed by teachers teaching class XI in the higher secondary schools in four subjects (one of which is Drawing and Commercial & Mechanical Drawing), in pursuance of the instruction issued by Union of India, Ministry of Education & Social Welfare with the result only those who possessed the upgraded minimum qualification were promoted as PGT teachers and were given the higher scale of pay i.e. 350-25-400-30-799. The applicant Nos. 1 & 2 who did not possess the upgraded minimum qualification were denied the benefit of the promotion as well as the higher pay scale. Some of the aggrieved Drawing and Geometrical and Mechanical Drawing teachers who were teaching these subjects to class XI and were denied the benefit of teaching class XI and higher pay scale filed Writ Petition No. 1312/73 in the High Court of Delhi. The same was transferred to this Tribunal and was registered as T-75/85. There were more than 42 applicants in this case. The Tribunal decided the case in their favour.

4. Though the prayer was to quash the amended rules and to amend them to include diploma holders in Drawing as an independent category of persons qualified for the post of PGT without

insisting on the upgraded higher minimum qualification, this Tribunal while conceding the right of the Rule Making Authority to make rules with retrospective effect was concerned itself with the question of whether the petitioners could be denied the higher pay due to a teacher who was all along qualified to teach class XI when other teachers qualified to teach class XI were being paid that salary. The Tribunal relied on the judgement of the Delhi High Court in CWP No. 1479/73 (M.L. Sharma Vs. Director of Education and Others). In M.L. Sharma's case the High Court passed the following Order:

"In my view the petitioners cannot insist that he has a right to teach any particular class though he may have a justified grievance if his pay and allowance are affected because of retrospective amendment of the recruitment rules. The pay scale of teachers in the common cadre of Senior Grade teachers cannot be different and if higher scale is given to teachers in the senior grade the petitioner who was in the senior grade would be entitled to the higher scale of pay."

The petition was allowed. Similar contentions were raised in two other Writ Petition Nos. CW 1480/73 and CW 1481/73 both transferred to this Tribunal and registered as T-1/86 and T-2/86. While disposing of these petitions the Tribunal held on 8.1.1987 that the order made by the High Court in CWP No. 1479/73 squarely governed the question raised and passed similar order. In view of these orders this Tribunal ruled "that when the order in Sharma's case has become final and binding on the respondents we deem it wholly inequitable to refuse similar benefit to other members

of the service who belong to the same category and are similarly placed. Judicial pronouncements should not result in fixing of different pay scales for members of the same service and similarly placed. The Tribunal directed that the same order as was made in Sharma's case should be made in this case. The petition was thus allowed".

5. Thereafter, a contempt petition was filed due to non compliance by respondents. The respondent then complied and promoted all the petitioners irrespective of their seniority as PGTs and gave them higher salary from 3.1.1974 with arrears vide order dated 1.1.1990.

6. The present applicants aggrieved similarly made representations to confer the benefit on them also but of no avail. Thereafter, several OAs were filed in this Tribunal by some other aggrieved teachers similarly placed, singly and together. They all got the higher pay scale notionally w.e.f. 3.1.1974 with arrears from one year before the date of filing of the different OAs by different persons.

7. The applicants have contended that they are similarly placed to the various petitioners and they should also be granted the same relief.

8. The learned counsel for the respondents opposed the same on grounds of limitation. According to the respondents these applicants are not similarly placed to the petitioners in WP 1312/73, T-75/85 as the

applicants had not moved the Court challenging the amended recruitment rules. The Hon'ble Court did not direct that all Drawing teachers, even those who did not move the Court should also be given the higher scale. Left to themselves the respondents ^{would} not have promoted all but they had to promote all the petitioners because of Court orders. The applicants have approached now in 1998. Moreover in some later OAs the benefit was confined to arrears of one year prior to date of application.

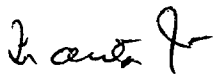
9. The learned counsel for applicants has filed a rejoinder and they are now seeking similar direction as given in OA No. 218/98 and other OA No. 2423/96, 2599/97 and 2180/97.

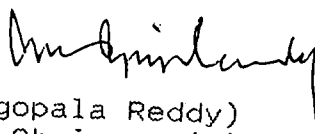
10. Heard both the counsels for applicants as well as respondents. We are satisfied that the applicants are similarly placed as the petitioners in CWP No. 1312/73. It is very clear from the common seniority list that they belong to the same cadre as the petitioners in CWP No. 1312/73. We are convinced that the applicants cannot be discriminated against. They are equally entitled to the higher pay scale w.e.f. 3.1.1974, as in the different OAs decided by this Tribunal earlier in identical matters. It is settled law that persons similarly situated to the beneficiaries of the judgement are to be extended the benefits thereof. However, as pointed out by the respondents their application is barred by limitation. The issue of limitation has been taken into consideration in the earlier OAs and a view was taken

that the case of Bhoop Singh Vs. Union of India (JT 1992(3)SC322 decided that the applicants therein should be given PGT scale from the date on which they presented the OAs before this Tribunal. We see no reason to deviate from that. The issue of the date from which the applicants should be granted consequential benefits has already been decided on 7.10.1996 in OA 218/93 in that consequential benefits were restricted to a date one year prior to the filing of the OA.

11. In the result the OA is partly allowed with the following direction:

The promotion shall be on notional basis from the date the persons juniors to the applicants were promoted in 1973, 1974. Payment of actual arrears would be confined to one year prior to filing of the OAs. || The OA, is therefore, disposed of in terms of the para above. No costs.


(Mrs. Shanta Shastri)
Member (A)


(V. Rajagopala Reddy)
Vice Chairman (J)

Mittal