

Central Administrative Tribunal  
Principal Bench

(62)

O.A. No. 317 of 1998

New Delhi, dated this the 21<sup>st</sup> November, 2001.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Mrs. Madhu Gupta,  
W/o Shri Surender Kumar Gupta,  
TGT (Domestic Science),  
R/o 9/6686,  
Street 8, Dev Nagar,  
New Delhi-110005.
2. Mrs. Usha Kiran Handa
3. Mrs. Sumeeta Sharma (Sangar)
4. Mrs. Malu Chatterjee
5. Mrs. Neelam Ranjan
6. Mrs. Jalmin Kaurr
7. Mrs. Renu Jutyanee Kapur
8. Mrs. Priti Dua
9. Mrs. Madhu
10. Mrs. Promila Sharma
11. Mrs. Saroj Narang
12. Mrs. Meenakshi Kalia
13. Mrs. Urmila Yadav
14. Mrs. Reena Krishan
15. Mrs. Davinder Bindra
16. Mrs. Krishna Saxena
17. Mrs. Meena Gupta
18. Mrs. Sunanda Dharmadhikari
19. Miss Sudesh
20. Mrs. Savi RRakesh Chugh
21. Mrs. Dalbir Kaur
22. Mrs. Asha Arora
23. Mrs. Anita Sangar
24. Mrs. Neeta Sachdeva
25. Mrs. Poonam Bala Chopra

(29)

26. Mrs. Rashmi Srivastava .. Applicants  
 (By Advocate: Shri H.K. Gangwani)

## Versus

1. Govt. of NCT of Delhi through its Secretary, New Delhi.
2. The Secretay, Dept. of Education, Govt. of NCT of Delhi, Delhi.
3. The Director of Education, Dept. of Education, Govt. of NCT of Delhi, Delhi.
4. Mrs. Poonam Jolly, TGT (Domestic Science), C/o Director of Education, Govt. of NCT of Delhi, Delhi.
5. Mrs. Beena Chauhan, TGT (Domestic Science), C/o Director of Education, NCT of Delhi, Delhi.

.. Respondents

(By Advocate: Mrs. Avnish Ahlawat)

## ORDER

S.R. ADIGE, VC (A)

Applicants seek a direction to grant due seniority on the basis of their appointment as TGT (Domestic Science) in terms of the Hon'ble Supreme Court's order in C.A. No. 1900/87 Union of India & others Vs. I.S. Khatri & Others and the CAT, P.B. order in O.A. No. 1691/94 Sohan Bir Singh & others Vs. Govt. of NC, Delhi and othes with consequential benefits. Specifically it is prayed that the seniority list of applicants and others on the cadre of TGT in various subjects giving full details of

7

date of selection, date of appointment etc. and fix the pay on the basis of such duly fixed seniority with consequential benefits including interest.

2. Shri I.S. Khatri & others had approached the High Court in writ petition No. 1170/85 which was later transferred to CAT vide T.A. No. 462/85 challenging the cancellation of the panel of selected candidates for appointment to post of TGT in various schools of Delhi Administration vide letter dated 5.3.85. By the CAT, P.B. order dated 6.2.87 the aforementioned T.A. No. 462/85 was allowed; the impugned order dated 5.3.85 in so far as it restricted the operation of the panel of selected candidates to the extent of actual notified vacancies was quashed and respondents were directed that all the candidates included in the panel of selected candidates prepared till June, 1984 for posts of TGT should be appointed against existing or future vacancies, and persons in the said panels would have precedence in appointment over persons included in any subsequent panel and not so far appointed. Furthermore no fresh panel for appointment to posts of TGT in the categories covered by the said panels would be prepared until the said panels were exhausted and offer of appointment had been made to all persons included in the said panels.

3. The aforesaid orders dated 6.2.87 were broadly approved by the Hon'ble Supreme Court in their order dated 5.8.89 in C.A. No. 1900/87 Union of India & Others Vs. I.S. Khatri & Others.

(31)

4. Thereafter Sohar Bir Singh and others filed O.A. No. 1691/94 claiming similar relief. During hearing the Bench was informed that the final seniority list was under preparation. Objections had been invited to the draft seniority list which were on the process of being disposed of. After disposal of the objections, the seniority list would be finalised, and after finalisation of the same, the matter of pay fixation would be taken up. Only after the completion of the seniority list and the fixation of pay could applicants <sup>legitimately</sup> ~~legitimately~~ feel aggrieved about any irregularity/disparity of pay amongst junior and senior teachers in the cadre. In the light of the submissions, the O.A. was disposed of by order dated 14.2.96 with a direction to respondents to finalise the seniority list with the utmost expedition and thereafter consider the claims of applicants within six months from the date of receipt of a copy of the order.

5. Later, by order dated 19.11.96 in M.A. No. 1919-A/96 time to implement the directions in Sohanbir Singh's case (supra) was extended till 31.3.97.

6. Meanwhile by order dated 3.9.97, C.P. No. 211/97 alleging non-compliance of the Tribunal's order on Sohanbir Singh's case (supra) was rejected.

7. Eventually by letter dated 18.11.1997 addressed to all DOEs (Ann. R-1) respondents issued the final seniority list upto August, 1981 and a tentative list w.e.f. Sept. 1981 to Dec. 1992 in respect of TGTs (Domestic Science) in the pay scale of Rs.1400-2600. The name of applicants in the present O.A. find mention in this tentative list. For example applicant No.1 Smt. Madhu Gupta is at Sl. No.735 of the tentative list. To make it more authentic the dates of joining of the teachers along with any objection/information in this regard was called for to enable preparation of the final seniority list.

8. Thereafter respondents by their letter dated 31.8.98 attached with applicants M.A. No. 2434/2000 have enclosed what they claim is a final seniority list of TGTs (Domestic Science) in the scale of Rs.1400-2600 for the period Sept. 81 to 28.2.98. Applicants in the O.A. find mention in that list. For example Applicant No.1 is at Sl. No. 736 of that list.

9. Applicants are correct when they state that the list does not contain details normally found in a seniority list such as date of initial appointment; date of joining the post; date of regular appointment; pay scale etc. From the letter dated 31.8.98 it is clear that respondents are themselves aware of these lacunae and have called for details from the concerned districts, for necessary information in the final seniority list.

10. In this connection during the course of hearing applicants' counsel asserted that one Ms. Ramvati whose position in the tentative seniority list of 1997 was below that of the applicants at S1. No. 780, was placed at S1. No. 704 (A) in the final seniority list of 1998 because of extraneous considerations. These contentions were denied by respondents who asserted that Ms. Ramvati's seniority list had to be refixed upon consideration of her representation against her position in the tentative seniority list, in the light of respondents' own order dated 1.7.85. If applicants are challenging the seniority of Ms. Ramvati; or indeed any one else in the aforesaid seniority list of 1998, the person whose seniority is being challenged have specifically to be impleaded in the O.A. Applicants have filed M.A. No.2434/2000 seeking amendment of the O.A, which was allowed by order dated 9.8.2001, but in the light of the fact that the interests of others would be vitally affected, it is fit and proper <sup>and</sup> in the interests of justice that if applicants are aggrieved with the fixation of seniority of any particular individuals vis-a-vis themselves, a fresh O.A. is filed in which the grounds for challenge as specifically stated, and the persons concerned are specifically impleaded as respondents:

11. In so far as the claim of applicants in the present O.A. for pay fixation and personal benefits from the date they would have been normally

appointed but for respondents' action to operate subsequent panels is concerned, identical claims raised in O.A. No. 569/96 Mrs. Nirmal Gupta and Others Vs. L.G., Delhi & Others were rejected by CAT, P.B. vide order dated 18.1.2000, as those applicants like the present ones had not actually worked on their posts during the intervening period. R.A. No. 56/2000 seeking revision of that order dated 18.1.2000 and claiming grant of notional pay fixation for the intervening period was also rejected by order dated 13.9.2000. Indeed, following the Tribunal's order dated 18.1.2000 in Mrs. Nirmal Gupta's case (supra), respondents by their orders have denied pay fixation of financial benefits for the intervening period to Shri Alam Chand Sharma as well as to Shri Satya Pal Sain and others and given them only the protection of seniority according to their placement in the panel. Copies of the orders passed by respondents have been taken on record, a perusal of which shows that reliance has been placed <sup>in</sup> ~~by~~ them on the Hon'ble Supreme Court's ruling dated 12.9.97 in Union of India Vs. R. Swaminathan AIR 1997 SC 3554 wherein it has been held that there is no anomaly in case a senior is drawing less pay than his junior and the senior is not entitled to stepping up of pay.

(35)

12. In the result the O.A. is disposed of with a direction to respondents to bring out the seniority list of applicants and others in the cadre of TGT in different subjects giving full details including date of selection, date of appointment etc. as expeditiously as possible and preferably within four months from the date of receipt of a copy of this order. However, in terms of what has been stated in Para 11 above, the prayer for pay fixation and other consequential monetary benefits including arrears on the basis of their placement in the panel is rejected. No costs.

*A. Vedavalli*  
21/11/2001

(Dr. A. Vedavalli)  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice Chairman (A)

/GK/