CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO.1159/95

New Delhi, this the 2nd day of May, 1996

Hon'ble Shri S.R. Adige, Member(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

O.A. 1159/95

1. Government School Teachers
Association (Regd.)
through its President Shri S.N. Dixit
221-A, Old Secretariat,
Delhi.

2. Shri R.C. Sharma,
s/o Shri Umrao Singh
Trained Graduate Teacher
Govt. Boys Sr. Secondary School III
Sarojini Nagar,
New Delhi.

3. Smt. Kanta Sharma,
w/o Shri D.K. Gupta
Domestic Science Teacher, Grade I,
Govt. Girls Sr. Secondary School
A-Block, Saraswati Vihar,
Delhi. ... Applicants

By Advocate: Dr. Gopal Subramaniam, Sr. Counsel with
Shri K.N.R. Pillai

Vs.

1. Union of India
through the Secretary
Ministry of Human Resource Development
(Department of Education),
New Delhi.

2. Govt. of NCT of Delhi
through the Director of Education
Old Secretariat, Delhi.
... Respondents

By Advocate: Shri Jog Singh

O.A. NO.1290/95

1. Fateh Singh Rana
s/o Shri Surat Singh
97, Nangli Poona
P.O. Alipur, Delhi.

2. Nafe Singh
s/o Shri Neki Ram
U/38, Vijay Nagar,
Narela, Delhi.

3. Hari Chauhan
s/o Late Shri Ch.Hargian Singh
29, Village Samaspur
Patpar Ganj,Delhi.

4. Bhim Singh Malik
s/o Shri Ujala Singh
F-50, Vishal Colony,
Nangloi,Delhi.

5. Raj Singh Lachab
late Shri Gopal Singh
village Katlupur
P.O. Gogha,Delhi.

6. Jai Prakash
s/o Shri Ram Singh
r/o V & P.O. Rattangarh,
Distt.Sonepat,Haryana

7. Shri Sumer Singh Rana
s/o late Shri Prithi Singh,
131, Nangli Poona
P.O. Alipur,
Delhi.

8. Ved Prakash Kaushik
s/o Shri Shiv Charan,
7, Dharam Colony,
Nangloi,Delhi.

9. Bhagat Singh Malik
s/o Shri Hazari Singh
T-114,Indra Colony,
Narela,Delhi.

10. Randhir Singh
s/o Shri Kamal Singh
village Lawa Khurd
P.O. Nuna Majra
Distt.Rohtak,Haryana

11. Baljeet Singh
late Shri Ram Nath
V & P.O. Janti Kalan
Distt.Sonepat,Haryana

12. Attar Singh Rana
late Shri Nanhe Ram
House No.43, V & P.O. Tigipur
Delhi.

13. Chatar Singh
s/o Shri Mohakam Singh
C-9/136, Yamuna Vihar,Delhi.

14. Balbir Singh Rana
late Shri Laik Ram
108, Nangli Poona
P.O. Alipur,Delhi.

15. Mool Chand Yadav
late Shri Nihal Singh
WZ-651,Madipur,
Delhi.

16. Inder Pal
s/o Shri Rishal Singh
A-92, Jagat Puri,
Nathu Colony Chowk,
Shahdra, Delhi.

17. Ranbir Singh,
s/o Hukam Singh
B-393, DDA Flats,
Timarpur, Delhi.

18. Dharam Bir Singh
s/o Shri Hukam Chand
V & P.O. Harshan Khurd
Distt. Sonepat, Haryana

19. Ram Kumar Mor
Shri Chhotey Lal
V & P.O. Harshana Kalan,
Sonepat, Haryana

20. Tara Chand
s/o Shri Chhattar Singh,
V & P.O. Rathdhana,
Sonepat, Haryana

21. Rajpal Singh Sehrawat
s/o Late Shri Hoshiar Singh Arya
B-23, Adarsh aptt.
Sector-IX Rohini,
Delhi.

22. Mahavir Singh Hooda
s/o Shri Pirthi Singh,
92, DDA Flats,
Nimri, Ashok Vihar Phase-IV,
Delhi.

... Allicants

By Advocate: Shri B.S. Charya

Vs.

1. National Capital Territory of Delhi
5, Alipur Road, Delhi
(through its Chief Secretary)

2. The Director of Education,
National Capital Territory of Delhi,
Old Secretariat, Delhi.

3. The Secretary (Services),
National Capital Territory of Delhi,
Old Secretariat, Delhi.

... Respondents

By Advocate: Shri Jog Singh

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ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

These two applications, O.A. 1159/95 and O.A.1290/95 were taken up for hearing along with O.A.849/91, as the main issues involved in these O.As. are the same.

2. The applicant No.1 in O.A.1159/95 is the Govt. School Teachers Association(Regd.) and the applicants in O.A.No.1290/95 are Trained Graduate Teachers(TGTs) and all are working in Govt. Schools in the National Capital Territory of Delhi. The applicants in these two applications are aggrieved by the fact that Office Order No.3 dated 2.3.95 issued by the Govt. of NCT of Delhi has not extended the benefit of the pay scales given to Physical Education Teachers(PETs) with effect from 1.1.67 to them. They have claimed that the order confines the benefit of revision of pay scales only to PETs which is discriminatory. They have claimed that they are holding the equivalent posts as TGTs in different subjects like Language Teachers, Sr. Music Teachers, Sr. Drawing Teachers etc. The applicants have claimed that they have all along been at par with PETs in pay scales and therefore, they have alleged that it is discriminatory on the part of the respondents not to revise their pay also with effect from 1.1.67 together with arrears accruing by way of revision when the PETs pay scales have been revised by the Order No.3 dated 2.3.95. At the time of hearing

of the application in O.A.No.1159/95, Dr. Gopal Subramaniam, learned counsel, submitted on behalf of the applicants that he is not pressing the claim for revision of pay scale with effect from 1.1.67 but only from 1.1.86.

3. The brief facts of the case are that in an earlier judgement of the Tribunal in Madan Lal Gautam and Ors. v. Directorate of Education and Ors. (O.A.No.1526/90 decided on 31.8.94), the applicants who were PETs, Grade-II in the Delhi Administration had prayed for a direction to the respondents to treat them at par with the NDS Instructors by revising their pay scale accordingly. None appeared on behalf of respondents despite sufficient time being granted, and therefore, the case was disposed of after hearing Shri H.L. Srivastava, learned counsel for the applicants. The case was disposed of on the basis of the letter dated 11.1.94 issued by the Ministry of Human Resources Development, Department of Education, Govt.of India, respondent No.1 addressed to the Director of Education, Delhi Administration directing the respondents to take further action in accordance with the same. The relevant portion of the letter stated that "the PETs are better qualified than the NDS Instructors". It was also stated that" it is felt that the denial of partity in the pay scale between different group of peoples engaged in the same job would amount in violation of Article 14 of the Constitution of india."

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4. In pursuance of the judgement of the Tribunal in O.A. 1526/90 dated 31.8.94, the respondents issued Office Order No.3 dated 2.3.95, in which they have stated that the pay scales of PETs Grade-I and Grade-II are revised on the anology of NOS Instructors Senior Grade-I and Senior Grade-II as revised by the Govt. of India vide their letter dated 4.8.88. The learned counsel for the applicants, therefore, submits that in reality the new pay scales of PETs would be in respect of ordinary scale of Rs.1640-299 and Rs.2000-3500 in respect of senior scale and Rs.2200-4000 in respect of selection grade. These pay scales are much more favourable as against the applicant - TGTs. The learned counsel submits that right from 1950 to 1966, all groups of TGTs, including PETs, have been treated as of the same group and of the same class. Therefore, he submits that once the pay scales of PETs who form the group of TGTs have been revised by the respondents from 1.1.67 to a higher scale, the applicants who are TGTs and who have all along been considered in the same grade should also be given the same relief on the principle of 'equal pay for equal work'. They have, therefore, prayed that the discrimination against them should be removed and they should also get the same benefits as were given to the PETs which they have now modified to the extent that their claims may be restricted from 1.1.86, instead of 1.1.67.

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5. The respondents have submitted that the judgement of the Tribunal inthe case of Madan Lal Gautam (OA No.1526/90) is not applicable to any other category of teachers as it was based solely on the letter dated 11.1.94 issued by the Govt. of India in respect of PETs. They have stated that this is not a judgement in rem but it is a judgement in personam. They have submitted that the educational and professional qualifications as laid down in the Recruitment Rules are quite different for each category of teachers and, therefore, what has been given to the PETs cannot be extended to the other categories. They have further submitted that since the Fifth Pay Commission has already been set up to look into the pay scales generally, the grievances of all categories of teachers can also be looked into by the Commission, if the applicants filed their grievance before them for relief. We have also heard Shri Jog Singh, learned counsel for the respondents.

6. Dr. Gopal Subramaniam, learned counsel for the applicants in OA 1159/95 has drawn our attention to the D.O. letter dated 18.1.96 issued by the Ministry of Human Resources and Development, Department of Education which had been issued in reference to the Office Order No.3 dated 2.3.95. The learned counsel submits that para 4 of the D.O. letter has advised that the order dated 2.3.95 should be kept in abeyance till the entire matter is thoroughly examined. He submits that the respondents cannot by executive action keep the judgement of the Tribunal dated 31.8.94 in

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abeyance and they can only do so by appropriate proceedings in law by way of revision or an appeal which they have not done. However, it was not disputed by the learned counsel that so far as the applicants in OA 1526/90 are concerned, the respondents have implemented the order dated 31.8.94 by their order dated 2.3.95. Since the applicants in that case are also not before us, we need not express anything further at this stage regarding the D.O. letter dated 18.1.96, in view of what is stated below.

7. We have already referred to the judgement of the Supreme Court in State of West Bengal and Ors. V. Hari Narayan Bhowal and Ors ((1994) 27 ATC 524) in OA 849/91 in which the court had held that the principle of "equal pay for equal work" can be enforced "only after the persons claiming satisfy the court that not only the nature of work is idential but in all other respects they belong to the same class and there is no apparent reason to treat equals as unequals". It was further held "that the court should not take upon itself the responsibility of fixationof scales of pay, especially when the different scales of pay have been fixed by the Pay Commission or Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material."

8. The Fifth Pay Commission is already seized with the matter relating to revision of pay scales of employees in various categories. It is noted that in O.A. 1159/95 and O.A.849/91, applicant No.1 is the Govt. School Teachers Association(Regd.) and the applicants

in O.A.No.1290/95 are teachers having the same grievance. In view of our directions given in OA 849/91, we are of the view that these two applications may also be disposed of with similar directions.

9. Accordingly, we dispose of these two O.As. with the following directions:-

i) The applicants may submit a self-contained representation within 10 days from the date of receipt of a copy of this order to the respondents including therein all the points raised in this application.

ii) The respondents shall thereafter forward such representation together with their comments, if any, to the Fifth Pay Commission for their consideration as expeditiously as possible and in any case not beyond four weeks so that the Commission may be able to consider the applicants' demands and make appropriate recommendations, provided the Commission accepts the same.

10. O.A. is disposed of as above. No order as to costs.

(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

(S.R. ADIGE)
MEMBER(A)

/rk/

Attested
2/5/96
Court Officer
Central Administrative
Principal Bench, Faridkot
Copernicus Marg New Delhi