

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 739/95

New Delhi, this the 22nd day of May, 1996

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

Shri Vyas Dev Sharma  
s/o Shri Ram Saran Dass  
r/o 7A/7, W.E.A.  
Karol Bagh,  
New Delhi.

... Applicant

By Advocate: Shri S.K. Bisaria

Vs.

1. Lt. Governor, Delhi  
through  
Chief Secretary  
National Capital Territory of Delhi  
5, Sham Nath Marg,  
Delhi.

2. Director of Education  
Govt. of NCT  
Old Secretariat,  
Delhi.

... Respondents

By Advocate: Shri Vijay Pandita

ORDER

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

The applicant, who has retired from service on 31.7.93 as Post Graduate Teacher - Physical Education (PGT), is aggrieved that he has not been granted the Selection Grade as Physical Education Teacher (PET) which has been granted to his juniors who are in service as PETs by office order dated 7.1.94 (Annex.A-1);

2. The brief facts of the case are that the applicant was initially appointed as Senior Physical Education Teacher (Sr.PET) on 4.1.56. In the Final Seniority List of Sr.PETs as on 30.11.68 (Annexure 2), the applicant is shown at Sl. No.8 whereas S/Shri S.L. Sethi and Rajinder Prasad are shown at S.Nos. 9 and 12, respectively. He was given the Selection Grade of Sr.PET vide office order dated 4.1.73 with effect from 5.9.71 (Annexure 3). Admittedly, the applicant was promoted as PGT with effect from 6.10.80 in the grade of Rs.550-900 and was subsequently confirmed in that grade (Annex 4). The revised pay scale of PGTs (Rs.1640-2900) was given to him with effect from 1.1.86 and his pay was fixed at Rs.2900/- i.e. at the maximum. After the applicant has superannuated on 31.7.93, the respondents have passed the impugned order dated 7.1.94. By this order six PETs (Male) of the Directorate were granted Selection Scale in the pay scale of Rs.2000-3500/- with effect from 1.1.86 in accordance with the Govt. of India instructions issued on 12.8.87 as amended on 3.11.87 and 6.2.89 "subject to the condition that they have completed 12 years service in the selection grade and are working as on 1.1.86 with the same post/category of which selection scale is awarded." Among the persons given the selection scale as PET is Shri S.L. Sethi. The grievance of the applicant is that while the applicant retired as PGT in the grade of

Rs.1640-2900/-, his junior in the cadre of PET, Shri S.L. Sethi has been awarded a higher selection grade of Rs.2000-3500/-, which he submits is arbitrary, illegal and discriminatory.

3. The applicant has submitted representations on 18.3.94 and 22.3.95 to consider his case for stepping up of pay as his juniors were getting more pay, to which he states no reply has been given. Shri S.K. Bisaria, learned counsel for the applicant relies on the judgement of this Tribunal in S.C. Jain & others Vs. Lt. Governor & Ors. (O.A.No.729/89 and connected O.As.) decided on 19.2.90 (copy placed in the file). The SLP filed against this judgement was dismissed by the Supreme Court by order dated 8.1.91. The learned counsel submits that since the applicant was senior to Shri S.L. Sethi as PET, as PGT his salary cannot be fixed lower than that of his junior in the lower grade and hence he seeks the grant of Selection Grade of Rs.2000-3500/- with effect from 1.1.86 in terms of office order No.4 dated 7.1.94.

4. The respondents have filed their reply in which they have stated that when the applicant was promoted as PGT he ceased to be a PET and hence he was not eligible for grant of selection grade as PET. Hence no stepping up benefits are permissible to him after his promotion as PGT

17

in 1980. Shri Vijay Pandita, learned counsel for the respondents submits that the PETs were entitled to be granted selection scale of Rs.2000-3500/- with effect from 1.1.86 provided they had completed 12 years service in the selection grade and are working in that grade as on 1.1.86 as provided in the office order No.4 dated 7.1.94. He submits that since the applicant was no longer a PET on that date but had already been promoted, he was not entitled to be given the selection scale as per the office order dated 7.1.94.

5. I have carefully considered the arguments of both the learned counsel for the parties and perused the record.

6. Admittedly the applicant was promoted as PGT with effect from 6.10.80 and had been regularised in that grade by order dated 23.5.91 with effect from 6.10.80. Therefore, on 1.1.86 he was not holding the post of PET in the selection grade so as to entitle him to the benefit of the selection scale of Rs.2000-3500/- admissible to PETs who had completed 12 years of service on that date.

7. I have also seen the judgement of the Tribunal in S.C. Jain & Others Vs. Lt. Governor & Ors case (supra). This case will also not assist the applicant as the facts in that case are distinguishable. In the present case,

B

130

the applicant has nowhere shown that he still holds a lien as PET after his promotion to the PGT grade and in that case the orders under which direction was given to fix the pay of the applicants are the letters of the Ministry of Human Resources dated 3.11.87, 14.10.88 and 10.11.86, whereas in the present case reliance has been placed on the office order dated 7.1.94 which are different.

8. In the facts and circumstances of the case, since the applicant does not ful-fil the conditions provided in the office order dated 7.1.94, namely, that he was in service in the selection grade of PET as on 1.1.86, he would not be entitled to be granted the selection grade as PET of Rs.2000-3500/- with effect from 1.1.86. Admittedly the applicant had been promoted as PGT by them and he cannot, therefore, now claim benefits of the selection scale in the lower grade of PETs in accordance with the office order No.4 issued later on 7.1.94, especially when he is not able to show that he fulfils the conditions prescribed there. The applicant has also not challenged this order in this application.

9. In the result for the reasons given above, this application fails and is dismissed. No costs.

*Lakshmi Swaminathan*  
(SMT. LAKSHMI SWAMINATHAN)  
MEMBER(J)

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