

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.A./T.A. No. OA-1228/95 &
OA-239/96 /19 Decided on: 7.10.96

Gayatri Devi & 29 Ors.
and connected cases
..... APPLICANT(S)
(By Shri N.N. Aggarwal Advocate)

VERSUS

N.C.T. of Delhi

..... RESPONDENTS

(By Shri Arun Bhardwaj &
Vijay Pandita Advocate)

DD RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SRI~~ DR. A. VEDAVALLI, MEMBER (J)
DR.

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal ? Yes

S.R. Adige
(S.R. ADIGE)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

New Delhi, dated this the 7th October, 1996

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

1. O.A. NO. 1228 of 1995

1. Mrs. Gayatri Devi,
W/o Shri M.P.Sharma,
Basic Teacher in OHBI,
Delhi Gate Resident,
7/2, Darya Ganj,-
New Delhi-110002.
2. Mrs. Pushpa Rani,
W/o Shri Dina Nath,
Basic Teacher in Home for
Mentally Retarded Children,
Dte. of Soc. Welfare, D.A.,
Avantika, Rohini, Delhi,
R/o AK-25, Shalimar Bagh,
Delhi.
3. Mrs. Hemlata Negi,
W/o Shri Negi
T.G.T. School for Mentally
Retarded Children,
Delhi Gate, New Delhi,
R/o A-13, Times of India Apartment,
Mayur Vihar Phase-II,
New Delhi.
4. Mr. Chandroop Gahlot,
S/o Shri Chatter Singh,
Working as Drawing Teacher in OHBI,
Delhi Gate,
R/o 226, Village Nawada,
P.O. Uttam Nagar,
New Delhi-110059.

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5. Mr. Kanwar Singh
Son of Shri Maya Ram Singh (aged about 32 years)
Occupational Teacher OHBI, Delhi Gate,
New Delhi,
R/o Staff Quarters OHBI, Delhi Gate,
New Delhi - 110 002.

6. Miss Krishana Kumari
Daughter of Shri Gopi Chand (aged 42 years)
BABT Teacher, OHB-I, Delhi Gate,
New Delhi - 110 002,
R/o Gandai Mohalla, Chhota Bazar,
Shahdara,
Delhi.

7. Mrs. Rajesh Sharma
Wife of Shri C.P.Sharma (aged about 54 years)
J.B.T., Children's Home for Boys,
Kasturba Niketan, Lajpat Nagar,
New Delhi.

8. Mrs. Trilochan Bindra
wife of Shri Pritpal Singh, (aged 45 years)
Bal Niketan Nirmal Chhaya Complex,
Jail Road, New Delhi.

9. Mrs. Kamla Puri
Wife of Shri Satpaul Puri (aged about 56 years)
working as TGT in Children Home, Tihar,
New Jail Road, Delhi,
R/o 13/5, Punjabi Bagh,
Delhi.

10. Mrs. Krishna Mal
Wife of Shri Sushil Mal (aged about 48 years)
Basic Teacher in Sanskrit,
5/3, Ashram for Girls, Model Town, Delhi
R/o AC-128, Shalimar Bagh,
New Delhi.

11. Mrs. Shakuntala, Solanki
Wife of Shri Inder Singh Solanki (aged about 48
working as TGT in After Care Home for years)
Women, Nirmal Chhaya Complex,
Jail Road, New Delhi
R/o RZ-455 SBI Building,
Main Road, Raj Nagar,
Palam Colony,
New Delhi.

contd...

12. Mrs. Ram Pyari Kapoor,
Wife of Shri R.P.Kapoor (aged about 56 years)
Basic Teacher in Village College Home, II,
A-38, Kirti Nagar, New Delhi,
R/o A-3/217, Janak Puri,
New Delhi.

13. Mrs. Salisaba Toppo
Wife of Shri Nestor Topo (aged 54 years)
Basic Teacher, Home for Healthy Female
Children of Leprosy Patients,
Jail Road, New Delhi
R/o G-5, Moti Bagh-I,
New Delhi.

14. Mrs. Gian Narula
Wife of Shri K.K.Narula (aged 53 years)
Basic Teacher, Home for Healthy Female
Children of Leprosy Patients,
Nirmal Chhaya, Jail Road, New Delhi
R/o 1184, Gulabi Bagh,
New Delhi.

15. Mrs. Ignatia Ming
Wife of Shri Paschal Ming, (aged 54 years)
Mahila Ashram (Widow Home),
Jail Road, New Delhi,
R/o Qr.No.1075, Sector-V,
New Delhi.

16. Shri Vedi Ram
Son of Shri Chander Singh (aged 42 years),
Basic Teacher, Village Cottage Home-III,
Kothi No. F-4,5,6, Maharani Bagh, New Delhi
R/o 1/331, Trilok Puri,
New Delhi.

17. Smt. Rajesh Rani
Wife of Shri Ashok Kumar (aged 40 years),
PTI, Village Cottage Home-III,
Kothi No.F-4-5-6, Maharani Bagh, New Delhi,
R/o Qr.No. B.D/14-H, D.D.A Plate,
Munirka,
New Delhi.

18. Mrs. Phoolpati
Wife of Shri Dhara Singh (aged about 46 years)
PTI Children Home for Boys Narela,
R/o Shri Hukam Singh Pahalwan,
Village & PO Bawana,
Delhi - 110 039.

19. Mrs. Uma Chaudhry
Wife of Shri R.P.Singh (aged about 45 years)
TGT, School for Mentally Retarded Children,
Delhi Gate, Delhi,
R/o A-83, Jhilmil Colony,
Delhi.

20. Mrs. N.Z.Rizvi
Wife of Shri J.A.Rizvi (aged 52 years),
T.G.T School for Mentally Retarded Children
Delhi Gate, New Delhi,
R/o 3-D, Block 7, Mandir Marg,
Gole Market,
Delhi.

21. Mrs. Kaushalya Aneja,
Wife of Shri Ashok Aneja (aged about 42 years),
TGT, School for Mentally Retarded Children,
Delhi Gate, New Delhi,
R/o H.No.245, Karkardooma, Delhi Administration
Flats, Delhi - 110 092.

22. Mrs. Sushila Sharma
Wife of Shri Nand Kishore Sharma (aged 40 years),
P.T.I., Balgriha -I, Kasturba Niketan,
Lajpat Nagar, New Delhi,
R/o H.No.23, Hari Nagar, Ashram,
Mathura Road, Delhi.

23. Mrs. Savitri Rasania
Widow of late Shri H.S.Rasania (aged 54 years),
Basic Teacher, School for Mentally Retarded
Children, Delhi Gate, New Delhi,
Resident of J-172, Patel Nagar-I,
Ghaziabad (UP).

24. Mrs. Shanti Sharma
Wife of Shri Kewal Krishan (aged 46 years)
working as Basic Teacher in Sanskar
Ashram for Boys Narela,
R/o 2642, Basti Punjabian, Subzi Mandi,
Delhi-110 007.

25. Mrs. Devi Bai
Widow of late Shiv Dayal (aged 57 years)
working as Literacy Teacher in Nari Niketan,
Tihar, Jail Road, New Delhi
R/o H.No.12-B, Pocket A, D.D.A. Flats,
Hari Nagar Depot,
New Delhi - 110 064.

26. Mrs. Sumitra Kumari
Daughter of Shri K.C. Chowdhry (aged about 48 years)
working as Basic Teacher Children Home
for Girls-I, Jail Road, Tihar, New Delhi,
R/9 H.No.271, Pocket-I,
Janta Quarters,
New Delhi.-

27. Mrs. Sumitra Devi
Wife of Mr. Jeewit Rai (aged 39 years)
working as BABT Teacher
in Mentally Retarded Home Avantika,
Rohini Sector-I,
New Delhi
R/o Z-833, Rishi Rani Bagh,
Delhi - 110 034.

28. Mrs. Pushpa Rani
Wife of Shri Mahinder Kumar
(aged about 46 years)
working as JBT, Children Home for Girls-II,
Jail Road,
Hari Nagar
New Delhi,
R/o H-3/76, Vikas Puri,
New Delhi - 110 018.

29. Shri Sachida Nand
Son of Shri Radha Kishan (aged 34 years)
B.A.B.T. Teacher
Children Home for Boys (Beggars), Narela,
Delhi - 110 040.
R/o C/o Shri H.P. Sharma
(Gali No.1, Swatantra Nagar)
Near Ram Mandir
Delhi - 110 040.

- APPLICANTS

VERSUS

1. Government of National Capital Territory
of Delhi,
through its Chief Secretary,
5, Alipore Road,
Delhi - 110 054.

contd...

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2. Directorate of Social Welfare,
through its Director,
Old ITI Building, Canning Lane,
Kasturba Gandhi Marg,
New Delhi - 110 001.

3. The Secretary,
Ministry of Social Welfare,
National Capital Territory of Delhi,
Block-C, 1st Floor,
5, Alipore Road,
Delhi - 110 054.

4. Lt Governor of Delhi,
Raj Niwas,
Civil Lines,
Delhi - 110 007.

2. O.A. No.239 of 1996

1. Mrs. Jay Roshini Thakur,
W/o Shri Kabul Singh (age 44 years)
P.T.I., Nari Niketan, Batika Grah-I,
Hari Nagar, New Delhi.
2. Mrs. Saroj Ahuja
wife of Shri P.D. Ahuja (age-45 years)
Basic Teacher, Nari Niketan, widow House,
Jail Road, Hari Nagar, New Delhi.
3. Mrs. Shakuntala Devi Mann
wife of Ishwar Singh Mann (age 44 years)
T.G.T. After Care House for boys,
Madipur, Delhi-63
4. Mrs. Shakuntala Chopra
wife of Shri M.I. Chopra (age 43 years)
Basic Teacher, Bal Sadan,
Timarpur, Delhi.
5. Miss Sushma Rani
D/o Late Shri Brijla (age 44 years)
Basic Teacher, day care Center,
Gulabi Bagh, New Delhi-34
6. Mrs. Shakuntla Devi
wife of Shri Om Prakash (age 40 years)
Basic Teacher Day Care Centre,
Gulabi Bagh, Delhi-34
7. Mrs. Shakuntla Rani
wife of Shri Shankar Dass (age 45 years)
Basic Teacher, Day Care Centre,
Gulabi Bagh, Delhi-34
8. Smt. Manorma Pant
wife of Shri Harish Pant (age 61½ years)
r/o Flat No.1144, Sector-A, Pocket-A,
Vasant Kunj, New Delhi-

Ex-Teacher (T.G.T.) - Day Care Centre,
Gulabi Bagh, New Delhi-34

9.

Gulab Singh
son of Shri Bhim Singh (age 40 years)
Assistant Teacher, Government School for
the Blind, Sewa Nutir, Kings Way Camp, Delhi.

... Applicants

Versus

1. Government of National Capital Territory of Delhi,
Through its Chief Secretary,
5, Alipur Road,
Delhi- 110 054
2. Directorate of Social Welfare,
through its Director
Old ITI Building, Canning Lane,
Kasturba Gandhi Marg,
New Delhi- 110 001.
3. The Secretary,
Ministry of Social Welfare,
National Capital Territory of Delhi
Block C, 1st Floor,
5, Alipur Road,
Delhi- 110 054.
4. Lt. Governor of Delhi,
Raj Niwas
Civil Lines,
Delhi-110 007.

... Respondents

By Advocates: Shri N.N. Aggarwal for the
applicants in both OAs
Shri Arun Bhardwaj for the
respondents in OA-1228/95
Shri Vijay Pandita for the
respondents in OA-239/96

BY HON'BLE MR. S.R. ADIGE, MEMBER (AO)

As these two O.As involve common question of law and fact they are being disposed of by this common judgment.

2. The applicants in these two O.As, all of whom are working as Teachers in the various institutions run by the Directorate of Social Welfare, Delhi Admn. are seeking the same benefits as has been allowed to applicants Jagdish Raj Gupta & Ors. vide Tribunal's judgment dated 10.6.94 in OA-1083/88 Jagdish Raj Gupta & Ors. Vs. UOI & Ors. and order dated 5.12.94 in MA-2176/94 arising out of that O.A.

3. The applicants in OA-1083/88 who were working as teachers in various institutions run by the Directorate of Social Welfare had sought the benefits flowing out of letters No.4-16/83-VC dated 29.3.85 (Ann. P of that OA) and letter No.F.16(1)/83-OSW/Est dated 20.9.88 (Annexure U of that OA).

4. While discussing the claims of applicants, Jagdish Raj Gupta and Others the Tribunal in its judgment dated 10.6.94 had noticed ^{that} initially ~~that~~ there was only one Directorate of Education which dealt with Education as well as Social Welfare. All the teachers used to be appointed under the Directorate of Education, but with the expansion of activities of Social Welfare, a need was felt by the Delhi Admn. to form a separate Directorate known as the Directorate of Social Welfare, some time in 1059. Some of

the employees of the Directorate of Education were transferred to the new Directorate. Under the common Directorate of Education the terms and conditions of the teachers who were working in the Homes/Institutions as well as those working in schools were the same and no distinction were made. However, after the formation of the Directorate of Social Welfare, the respondents had brought about distinction in the service conditions of the teachers working in the schools and those working in Homes/Institutions even within the same Directorate of Social Welfare. The schools included the Govt. Lady Noyce School for Deaf and Dumb; the Govt. School for Blind Boys; the Mental School for the mentally deficient children, etc. which came under the broad umbrella of schools while the Children Home for Boys, Children Home for Girls, Day Care Centres, Village Cottage Home, Sanskar Ashram for Girls, Bal Sadan, etc. came under the category of Homes and Institutions. A number of benefits had been extended to teachers working in schools under Directorate of Education, which were subsequently extended to teachers of schools under Directorate of Social Welfare. The specific benefits which were granted to the teachers working in schools under the Directorate of Education and extended to teachers working in specific schools under

the Directorate of Social Welfare but denied to teachers working in Homes/Institutions under the Directorate of Social Welfare included

- (i) enhancement in the age of retirement,
- (ii) grant of fixed medical allowance of Rs.15/- per month under specified conditions,
- (iii) stagnation increments and
- (iv) introduction of senior scales and selection scales for the category of teachers

5. The Tribunal in its judgment dated 10.6.94 discussed the various grounds advanced by those applicants while seeking extension of the above benefits to them including

- (a) Teachers working in Homes/Institutions were transferrable to the schools run by the Directorate of Welfare which indicated that there was free transferability between schools/Homes/Institutions; some of these schools in which transfer had taken place happened to be schools where the benefits now claimed have already been extended to. In this connection details of specific transfer orders were also noted by the Tribunal in its judgment;
- (b) Schools/Homes/Institutions were in the same footing in regard to the imparting of academic education. The essentiality certificates under Rule 44 of Delhi Education Act, 1973 was equally applicable even in the case of Homes/Institutions where composite education was followed as was clear from Directorate of Education letter dated 14.8.91 conveying its approval to the extension of the essentiality certificates for one of the Homes namely Children Home for Boys, Alipur;
- (c) School Leaving Certificates were issued to the children who leave Homes/Institutions after being imparted necessary academic education as was clear from letter dated 5.7.89 from Superintendent, Children Home for Boys to Deputy

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Director, Social Welfare;

(d) Recruitment Qualifications for the posts of teachers irrespective of whether they worked in Homes/Institutions/Schools were the same;

(e) The CAT Judgment dated 8.10.86 in OA-434/86 extending certain benefits to the drawing teacher working in Observation Home.

6. Accordingly it held that there was no reason to justify differential treatment to teachers working in schools and those working in Homes/Institutions within the same Dte. of Social Welfare of Delhi Admn.

7. By judgment dated 10.6.94 in OA-1083/88 J.R.Gupta & Ors. Vs. UOI & Ors., the respondents were directed to extend the benefits of

(i) Senior scale and selection scale;

(ii) Stagnation increment;

(iii) fixed medical allowance of Rs.15/- p.m. and

(iv) enhancement of retirement to 60 years to the applicants.

8. SLP No.15147/94 filed against that judgment was dismissed by the Hon'ble Supreme Court on 19.9.94.

9. Meanwhile the applicants had filed MA-2176/94 arising out of OA-1083/88 seeking certain clarifications in respect of judgment dated 10.6.94 in OA-1083/88, and necessary clarification was issued by the Tribunal vide order dated 5.12.94 on that MA.

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10. It is not denied that consequent to that order the Delhi Admn. in their letter dated 24.1.95 (Ann. A-5) sought Govt. of India's approval to implement the Tribunal's order, opining inter alia that they had been advised by their Govt. Counsel as well as their Law and Judicial Dept. that it would not be a fit case for filing SLP in the Hon'ble Supreme Court, or review application in the CAT. Pursuant to that order, the Govt. of India, Ministry of Welfare vide their letter dated 20.2.95 (Annexure B) sought for a detailed proposal from Delhi Admn.

11. Meanwhile these applicants had also filed C.P. No.150/95 alleging non-implementation of the Tribunal's orders dated 10.6.94, but meanwhile as the respondents issued order dated 31.10.95 (Annexure C) implementing the Tribunal's directions, the C.P. did not survive.

12. The applicants in the two OAs presently before us, are admittedly working as teachers in the same Homes/Institutions run by the Directorate of Social Welfare as J.R. Gupta & Ors. and are seeking the same benefits as had been extended to Shri J.R. Gupta & Ors. consequent to judgment dated 10.6.94 in OA-1083/88 and clarification dated 5.12.94 in MA-2176/94 arising out of that OA.

13. The respondents have opposed the prayer for

extension of these benefits to the applicants presently before us on the ground that teachers of Govt. Lady Noyce School for Deaf & Dumb and teachers of Govt. School for Blind Boys are at par with the schools of Directorate of Education, whereas teachers working in Govt. School for mentally retarded children as well as teachers working in other Homes/Institutions of the Directorate of Social Welfare are not on par because

- (a) they impart only non-formal education to the inmates of the Homes/Institutions
- (b) no syllabus is prescribed for the inmates of these Homes/Institutions
- (c) no formal examination is conducted for the inmates of these Homes/Institutions
- (d) these Homes/Institutions are not affiliated with the CBSE for the purposes of education
- (e) the duty hours of the applicants in these Homes/Institutions are from 9.30 a.m. to 5.30 p.m.
- (f) these Homes/Institutions are not schools.
- (g) the functions of these Homes/Institutions are totally different from the functions and activities of the schools.
- (h) The Govt. School for Blind Boys is having a prescribed syllabus and is affiliated with the CBSE, New Delhi.
- (i) The applicants avail of Earned Leave of 30 days in a calendar year unlike the teachers of schools of Directorate of Education.
- (j) The present applicants do not enjoy regular summer and winter vacations
- (k) The duties and responsibilities of the applicants are not at par with the teachers of schools under Directorate of Education.

14. We have considered the contentions carefully.

15. We note that many of these arguments were taken by the respondents in their reply to OA-1083/88 but were rejected by the Tribunal.

It cannot be disputed that if the applicants in the two OAs presently before us had also been a party in OA-1083/88 they would have been the recipients of the benefits flowing from the judgment dated 10.6.94 in that OA (against which the SLP filed was dismissed by the Hon'ble Suprement Court on 19.9.94) and further clarified by the order dated 5.12.94. Denial of these benefits to the present applicants in fact creates a situation where one set of teachers working in Homes/Institutions in the Directorate of Social Welfare, Delhi Admn. are the recipients of certain benefits as a result of a judgment in an OA which had been affirmed by the Hon'ble Supreme Court but another set of teachers working in those very same Home/ Institutions are deprived of those benefits, merely because they did not join in the earlier OA. This itself is discriminatory and hence violative of Articles 14 & 16 of the Constitution.

16. We also note that the present applicants before us have filed these two OAs on 9.6.95 and 12.1.96 respectively i.e. well within the limitation period from respondents order dated 31.10.95 implementing the judgment in J.R.Gupta & Ors. case (Supra) and under the

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facts and circumstances of the present OAs even the plea of limitation would also not apply here.

17. During the course of hearing Respondents' counsel Shri Bhardwaj had contended that the Tribunal had erred in placing reliance on the transfer orders referred to by it in its judgment in Jagdish Raj Gupta's case (Supra), ^{and} in treating the Homes/Institutions under the Directorate of Social Welfare as schools, on the same footing as the Govt. Lady Noyce School for Deaf & Dumb and the Govt. School for Blind Boys, and had argued that it would therefore not be correct for us to base our findings on that judgment. In this connection he had relied upon a rulings¹ in 1994(6)SCC 109. However, in view of the fact that the SLP No. 15147/94 filed against the judgment in Jagdish Raj Gupta's case (Supra) was dismissed by the Hon'ble Supreme Court on 19.9.1994, and the said judgment has become final we are absolutely bound by the same and hence these arguments advance by Shri Bhardwaj are rejected.

18. For the reasons stated above, we find no good reasons to deny the applicants in the two OAs before us the same benefits which have been extended to Jagdish Raj Gupta & Others by the Tribunal's judgment dated 10.6.94

in OA-1083 of 1988 and clarification dated 5.12.1994 in MA No.2176/96 arising out of that O.A. In this connection, we are informed that except for one teacher who has not chosen to file any O.A. all the other teachers working in Homes/Institutions of the Directorate of Social Welfare would be covered by the judgment in Jagdish Raj Gupta's case and the present O.As.

19. In the result, these two O.As succeed and are allowed to this extent that:

(i) the benefit of the judgment dated 10.6.94 in OA-1083/88 Jagdish Raj Gupta & Ors. Vs. UOI & Ors. and the clarification dated 5.12.94 in MA No.2176/94 arising out of that O.A. should be extended to the applicants in the two O.As presently before us, with effect from the date of this order.

*Submitted
Vide Court
Ordered
2-1-98
W.R. 147/97
E.R.A. 132/97*

(ii) Four months time is allowed from the date of receipt of the copy of this judgment for implementation of the above directions.

20. No costs.

21. Let a copy of this judgment be placed in each O.A.

(Dr. A. Vedavalli)
Member (J)

(S.R. Adige)
Member (A)

/GK/

*Attested
Suresh Kumar
Court Officer
Central Administrative Tribunal
Prinipal Bench, Secy. B-109
Panchayat Bhawan,
Opposite Parliament
New Delhi 110001*