

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.143/1997

New Delhi, this 12th day of February, 1999

Hon'ble Shri T.N. Bhat, Member (J)  
Hon'ble Shri S.P. Biswas, Member (A)

Shri V.N. Sharma  
144, Sharda Niketan  
Pitampura, Delhi-34 .. Applicant

(By Advocate Shri P.P. Khurana)

versus

Govt. of NCT of Delhi, through

1. Joint Secretary  
Education, Delhi
2. Director of Education  
Delhi .. Respondents

(By Advocate Shri Vijay Pandita).

ORDER

Hon'ble Shri S.P. Biswas

1. The applicant has challenged his reversion from the post of Principal to that of Vice-Principal and is further aggrieved for non-payment of pension and other pensionary benefits even though he has retired from service with effect from 31.10.1995.

2. We have heard rival contentions of the parties and the materials available on record. The case of the applicant is that though he was promoted as Principal from 1.4.88 and was drawing maximum pay in the pay scale of Rs.3000-4500, he was reverted to his erstwhile post of Vice-Principal by the impugned order dated 6.10.95 in the pay scale of Rs.2000-3500 just three weeks before his retirement. Coupled with this, though more than three years have since passed, he has not been paid pensionary benefits due to him.

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3. The case of the respondents is that the applicant was promoted to the post of Vice-Principal from Head Master's quota and was further promoted as Principal on ad hoc basis but was to be reverted pursuant to the judgement of the Hon'ble Supreme Court in the case of **K.C.Kakhanpal as reported in 1994 (Supp) 3 SCC 408**, by which PGTs of special cadre were made enblock senior to the Head Masters. As regards pension, respondents have stated that "action is being taken to give all the benefits admissible under the rules" in response to order dated 28.11.97. It is rather unfortunate that even though the applicant has retired in October, 1995 and orders have been issued after a gap of two years to release provisional pension to him, respondents have failed to initiate any action even in respect of provisional pension.

4. In so far as the applicant's contentions that some of his juniors have been allowed to continue to work as Principals while he was reverted three weeks before his retirement without any fault of him and some more junior persons have been given ad hoc promotions as Principals ignoring the superior claim of the applicant, the respondents have not come up with any convincing reply on these points. It is also the case of the applicant that from

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10.12.95 to 31.10.95 i.e. the date of his retirement he was never issued with a chargesheet that could warrant his reversion or come in the way of promotion.

5. Applicant's counsel also insisted on payment of interest for the delayed payment of pension. He has drawn our attention to the judgement of Hon'ble Supreme Court in the case of R.Kapoor Vs. Director of Industries 1994 (6) SCC 589, which itself was a follow up of apex court's earlier decision in the case of State of Kerala Vs. M. Padmanabhan Nair 1985(1) SSC 429. We have considered this aspect. Since the applicant was not at fault either in the matter of reversion or for non-settlement of his pensionary benefits after he retired on 31.10.95 and the respondents have not come out with any valid grounds for such a delay of more than two years. We find some force in the contention of the applicant.

6. For the reasons discussed aforesaid, the application deserves to be allowed and we do so accordingly, with the following directions:

(i) Order dated 6.10.95 shall stand quashed and set aside; the applicant would be deemed to have retired as Principal with effect from 31.10.95 and he would be entitled for all consequential benefits;

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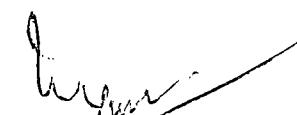
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(ii) Respondents shall immediately release the pensionary benefits to the applicant calculating the pension as if he has retired as Principal. This direction should be carried out within three months from the date of receipt of a copy of this order.

(iii) Applicant shall be eligible to payment of interest @ 18% p.a. on his retiral benefits from the date it were due to him till date of payment for reasons mentioned in para 5 aforesaid.

(iv) There shall be no order as to costs.

  
(S.P. Biswas)  
Member (A)

  
(T.N. Bhat)  
Member (J)

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