

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 154/1997

New Delhi, this the 22nd day of November, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)  
Hon'ble Sh. Govindan S. Tampi, Member (Admn)

In the matter of :-

Smt. Kanta Kohli  
W/o Shri K.L. Kohli,  
A/60, East of Kailash,  
New Delhi.

...Applicant.

(By advocate : Sh. P.S.Mahendru)

V E R S U S

1. Govt. of NCT of Delhi,  
Through

The Secretary  
Govt. of NCT of Delhi,  
5, Sham Nath Marg,  
Delhi.

2. The Director of Education  
NCT of Delhi  
Old Secretariate  
Delhi.

3. The Administrative Officer  
F-IV Branch, Directorate of Education,  
Old Secretariat  
Delhi.

...respondents

(By Advocate : Sh. Rajinder Pandita)

O R D E R (ORAL)

Shri Govindan S. Tampi,

In this case the relief sought is for the grant of Sr. Scale of Rs. 2000-3500/- to the applicant from 1-1-86, the date on which her juniors were granted this scale.

2. The applicant who was working as a Language Teacher in Govt. Girls Sr. Sec. School No.2, East of Kailash, was granted selection grade of Rs. 550-700/- w.e.f. 5-9-1971. This was revised to

Rs. 1600-2900 w.e.f. 1-1-86. The DPC was held for the grant of next higher grade of Rs. 2000-3500/- w.e.f. 1-1-86 to those Teachers who had completed 12 years in the senior scale (erstwhile selection grade) and working as on 1-1-86. Though, the applicant was eligible to be considered on that basis, her case was not considered and a number of persons junior to her were granted the benefit. This continued till she retired on 31-7-95. The applicant has been making representations and pleas to the respondents, but the same were of no avail. Her retirement benefits have been worked out on the scale of Rs. 1600-2900/- which resulted in her getting lesser pensionary benefits compared to what she would have got, had her pay had been correctly revised to Rs. 2000-3500/- w.e.f. 1-1-86, as it should have been, pleads the applicant.

3. Heard the counsel for the applicant and the respondents. Sh. P.S.Mahendru, learned counsel for the applicant pleads that as she was eligible and entitled to get the benefit of the higher grade of Rs. 2000-3500/- w.e.f. 1-1-86 which was also made available to her juniors. She should have been given the benefits and the retirement dues should have also been worked accordingly. As this is a case of fixation of pay, the case is covered by the decision of Hon'ble apex Court in M.R.Gupta's case 1995 (5) SCC P.628, and not hit by limitation, argues Sh. Mahendru.

4. Contesting the points made on behalf of the respondents Sh. Rajinder Pandita, learned counsel, holds that as this is a matter which had

arisen in 1971, the Tribunal could not legally entertain it in view of the Hon'ble Supreme Court's decision in V.K.Mehra Vs. Secretary, Ministry of Information & Broadcasting, New Delhi, ATR (1) 1986 P.203. Secondly, the application is hopelessly barred by limitation. Moreover, according to him the applicant was a person who has been transferred from MCD to Delhi Administration, the relative seniority position of the individuals was not available till 1995 and, therefore, it was not possible to determine as to whether she fell in the 20 % of the vacancies for being considered for the grant of the scale of Rs.2000-3500/-. The application, therefore, has no merit and deserves dismissal, he says.

5. We have carefully deliberated upon the rival contentions. The preliminary objections raised by Sh. Pandita, learned counsel for the respondents are mis-conceived and are accordingly rejected. This is not a case where the cause of action arose in 1971 as he tries to make out. While, it is true that the application was given the selection grade in September, 1971, which was revised to Rs. 1600-2900/- w.e.f. 1-1-86 and was termed as selection grade. The cause of action arose after that when DPC was held for a grant of next higher grade of Rs. 2000-3500/- to those who have completed 12 years service in the senior scale and who were working on that grade in 1986. The applicant ~~was~~ belonged to that category, but was denied the same. Hence her challenge. Therefore, the respondents' challenge on the maintainability of this OA, placing reliance on the decision of the Hon'ble Supreme Court in V.K.Mehra's

case cited by the learned counsel for the respondents has to be negatived. Secondly, being a matter relating to fixation of pay it falls within the purview of the decision in M.R.Gupta's case and is not hit by limitation. The respondents' explanation that they have not been able to arrive at a relative seniority of persons like applicants, who had been transferred to Delhi Administration from M.C.D. nearly 20 years ago also cannot help them, for denying the applicant her due, as quite of her juniors, similarly placed have been given the benefit. It has to be extended to her as well; and the respondents cannot seek protection behind the cover of their inaction. Moreover, she is a retired officer whose interest by way of pensionary benefits would have to be safeguarded by law. Still, as she had come before us at a very late stage, she would not be entitled for the payment of arrears, but only notional fixation of pay and full pensionary benefits. That being the case, the reliance placed by Sh.Pandita on the decision of this Tribunal for OA No. 1401/97, given on 26-8-97, relating to arrears of pay is of no avail.

6. In the result, the application succeeds on merit and is accordingly allowed. The respondents are directed to work out and grant to the applicant fixation of pay in the grade of Rs. 2000-3500/- from the date on which her juniors were granted the benefits. Pay fixation along with grant of annual increments shall be done till the date of her retirement on superannuation on 31-7-95. Her pensionary benefits should be accordingly worked out and given. While she would not be entitled for any

arrears of pay between 1986 till her date of superannuation, she should be granted full pensionary benefits including gratuity along with arrears, but without interest. This exercise should be completed within 3 months from the date of receipt of the copy of this order. We also order payment of cost of this application worked out at Rs. 500/- (Rupees Five Hundred) to the applicant.

*(Signature)*  
 (Govindan S. Tampi)  
 Member (A)

/vikas/

*(Signature)*  
 (V. Rajagopala Reddy)  
 Vice-Chairman (J)