

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

O.A. No. 183/87
T.A. No.

DATE OF DECISION 6-2-98


Ms. Deepa Chaudhary Applicant(s)
+ ors.

Versus

Union of Delhi Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(Dr. Jose P. Verghese)
VC(7)

Central Administrative Tribunal
Principal Bench: New Delhi

...
OA No.183/1997

New Delhi, this the 14 day of February, 1998

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S.P.Biswas, Member (A)

1. Ms. Deepa Chaudhary,
w/o Mr. Dharam Vir Singh,
r/o G-59, East of Kailash,
New Delhi.
2. Ms Sarojini Sabharwal
w/o Shri A.K. Sabharwal,
14/12A, Tilak Nagar,
New Delhi.
3. Ms Vidhu Chaturvedi
w/o Shri C.K. Chaturvedi,
23/209, Lodhi Colony,
New Delhi.
4. Ms Kiran Bala Vir,
E-88, Lajpat Nagar-I,
New Delhi.
5. Ms Nirmal Budhwar
w/o Shri Om Prakash Budhwar,
832, Sector III, RK Puram,
New Delhi.
6. Ms Shanta Sharma,
d/o Sh. S.D. Sharma,
28, GG-3, MIG Flats (DDA)
Vikaspuri, (BODELA)
7. Ms Rajni Verma d/o Sh. R.C.Verma,
A-1/163B, Lawrence Road,
Delhi.
8. Mrs Naresh w/o Sh. Bhajan Singh,
r/o C/4C/171, Pocket 14,
Janakpuri, New Delhi.
9. Smt. Sarojini w/o Sh. Harish Kewlani,
R/o C-56, Gujranwala Apartments,
J Block, Vikaspuri,
New Delhi.
10. Mrs. Manjinder Kaur w/o Sh. Gurnam Singh
FD/5, Tagore Garden,
New Delhi.
11. Mrs Rajni Rawat w/o Sh. Sudhir K. Rawat,
7, Sant Nagar, East of Kailash,
New Delhi.

12. Sonali Roy Choudhary,
w/o Dr. Asim Kr. Hazra,
123, Swarjmal Vihar,
Delhi.

....Petitioners

(By Advocate: Shri Manoj Chatterjee)

Versus

1. The Chief Secretary,
Govt. of N.C.T. of Delhi,
Delhi.
2. The Secretary (Education),
Directorate of Education,
Old Secretariat,
Delhi.
3. The Director of Education,
Directorate of Education,
Old Secretariat, Delhi.
4. Union of India through,
Secretary,
Ministry of Human Resources Development,
Shastri Bhawan, New Delhi.

...Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R

Dr. Jose P. Verghese, Vice-Chairman (J)-

The 12 petitioners in this case are Female Yoga Teachers seeking selection grade in the scale of Rs. 740-880/- revised at the relevant scale at the time of filing of this OA at Rs. 1640-2900/- w.e.f. 1.4.1994 with all consequential benefits. Petitioners are also seeking conversion of the reserved posts of 9 SC & ST Female Yoga Teachers for the benefit of existing general category Female Yoga Teachers as the same are still lying unutilized. The petitioners No. 1 to 3 and 5 to 12 were respondents No. 16, 10, 17, 14, 15, 13, 11, 12, 9, 7 & 19 respectively in a previous OA filed in this court vide OA No. 2282/94. This court by an order dated 5th November, 1996 had dismissed the said OA after recording certain relevant findings in favour of the respondents but since the said OA was adjudicating the grievance of the applicants, no relief has been granted to the said respondents in the said OA. Hence, the present OA.

(11)

2. The grant of selection grade in respect of teachers in the Delhi Administration was introduced by their letter dated 26.11.1971 w.e.f. 5.9.1971 with a view to minimise stagnation and also to improve their pay scales. Subsequently, it was decided that 20% of the sanctioned posts may be converted into selection grade. Initially the said order issued did not stipulate about the number of years of service required in a particular grade for being eligible to selection grade, rather in the year 1985 the respondents had clarified by their letter dated 16.4.1985 that there would not be any relaxation in so far as the period of three years of existence of the post were concerned as mentioned in their letter dated 4.3.1976 for admissibility of selection grade post whether in the aided schools or in the government schools. This court while deciding the above said OA by an order dated 5.6.1996 have also recorded these facts and came to the conclusion that there were 91 posts of selection grade available w.e.f. 1.3.1981 out of the total sanctioned post of 455. The said availability of the selection grade posts were arrived at on the basis of the relevant orders stipulating 20% of the total sanctioned posts be made available for selection grade. Petitioners in this case are seeking appointment to the selection grade since the respondents themselves had subsequently granted the selection grade to various yoga teachers on the basis of their order dated 24.1.1994 by which the 91 posts of selection grade was approved w.e.f. 1.4.1984.

3. After notice, the respondents have chosen not to file a reply and a short notice was handed over to the court on the date fixed for final hearing of this case to

(12)

dispose of the same at the admission stage itself. It was brought to our notice through the said note that there was no stipulation as to what would be the number of years of experience required for a Yoga teacher to be placed on the selection grade. It was also pointed out to us that in the case of SC & ST candidates there was a stipulation that the selection grade would be given only after completion of the probation period and when they become eligible for promotion to the next higher grade. According to the rule they became eligible for promotion to the next higher grade only after they had put in five years of service but as a one time measure the then Lt. Governor had allowed relaxation in the case of SC & ST candidates to the extent that the selection grade may be granted on completion of one year of service in the grade as a one time relaxation and not to be quoted as a precedent and it was also stated in the said note that this decision was taken in respect of certain category of teachers and it does not have any bearing with respect to grant of selection grade to other Yoga Teachers. It was also pointed out to us that w.e.f. 1.1.1986 the selection grade has been substituted by a 'senior scale' wherein there was a provision that 12 years of service in a particular grade will be required for a candidate to obtain the senior scale and as such the stand of the department is that the selection grade granted to these teachers by their letter dated 3.3.1994 w.e.f. 1.4.1994 could not have been granted as the same would be by way of unintended benefit by awarding selection grade to such teachers who had just put in one year of service only.

A

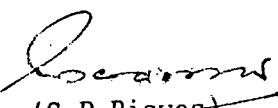
13


4. We have considered the rival contentions of the parties and we were of the opinion ^{KK} since the respondents themselves have passed an order on 1.4.1994 ^A creating 91 posts which include 55 posts for Female Yoga Teachers w.e.f. 1.4.1984 and the said benefit, if it has already accrued to any of the petitioners, will have to be given to them as and when they became eligible for said post. The crucial date of 1.4.1984 has been considered after expiry of the three years of the existence of the post w.e.f. 1.4.1981. We are of the considered view that the stipulation of three years of existence of the post for admissibility of selection grade cannot be viewed in isolation. It will have to be viewed as a requirement vis-a-vis the teacher ~~is~~ concerned that is to say that after the concerned Yoga Teacher joins the post and completes the probation period and thereafter happens to complete three years of continuous service from the date of appointment, only then she will be eligible for grant of selection grade. There cannot be a magic in the date of 1.4.1994 rather it will have to be related to each individual teacher and to their date of appointments and completion of probation and expiry of three years. In the light of the above said observation we are of the considered opinion that all the petitioner~~s~~ are entitled to selection grade w.e.f. 1.4.1984 or any subsequent date after completion of probation as well as three years of continuous service. Respondents shall pass appropriate orders granting selection grade strictly in accordance with the seniority without upsetting their position from the seniority decided on the basis of date of appointment. It goes without saying that in the event, any of the juniors have been considered for grant of selection grade, those teachers appointed prior to the said date will also be eligible for consideration for grant of

selection grade. We make it clear that the grant of selection grade shall be strictly confined to the 20% of the total posts available for the purpose of selection grade as per the letter cited above.

5. One of the reliefs sought in this petition being that the unutilized quota for SC & ST Yoga Teachers may be converted and the selection grade against such posts may also be granted to the petitioners. We do not want to pass any direction in this regard except to say that the de-reservation being a matter to be done in accordance with the rules and with the approval of the competent authority under the rules, the said procedure shall be resorted to before dereserving any of the posts otherwise reserved for the benefit of the SCs & STs.

6. As per the above said directions, appropriate orders shall be passed within two months from the date of receipt of the copy of this order and to this extent this OA is allowed, no order as to costs.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J)

na