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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2942 of 1997

M. A. No. 145/98

New Delhi, this the 19th day of November, 1999

HON'BLE MR. S. P. BISWAS, MEMBER (ADMNV)

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Shri Krishan Chander
S/o Shri Mangli Ram
R/o H.No. 197, Barwala,
Delhi-110039

....Applicant

(By Advocate: Shri D.S. Mahendru)

Versus

Govt. of N.C.T. of Delhi, through

1. Lt. Governor
Raj Niwas, Raj Niwas Marg,
Delhi-110054
2. Dy. Director of Education (North-West)
Hakikat Nagar, Delhi
3. Principal
Govt. Boys Senior Sec. School No. 2
Narela, Delhi-110040

....Respondents

(By Advocate: Shri Rajinder Pandita)

O R D E R (ORAL)

By Hon'ble Mr. S. P. Biswas, Member (Admnv)

The present O.A. has been filed by the applicant, a teacher under the respondents, who is aggrieved by inaction on the part of the respondents in not paying the benefits of arrears pursuant to stepping up of applicant's pay in terms of office order dated 16.3.92 as at Annexure A-1. Consequently, the applicant seeks relief in terms of issuance of directions to the respondents to pay him the sum of Rs. 28,254/- due to him in terms of the aforesaid order.

2. Applicant has also filed an M.A. 145/98 for condonation of delay. Since it is a matter touching upon the payment of arrears of salary, we are

✓ convinced that the applicant has made a case for condonation of delay in terms of the spirit of law laid down by the Apex Court in the case of M.R. Gupta Vs. G.O.I., 1995 (2) ATJ 567.

3. While the case had been coming up before the Benches of the Tribunal for quite some time and since no reply was filed by the respondents, this Tribunal vide its order dated 19.8.99 recorded that the respondents' right to file counter stands forfeited if the reply is not filed within the time stipulated by the said order.

4. Shri. Rajinder Pandita, learned counsel for the respondents, as shown in the cause list, submitted that he is not in a position to defend the respondents since the latter has not provided any brief to him.

5. It is the case of the applicant that he was due for the arrears from 5.9.71 to the level of pay of the juniors at the rate of Rs.340-400 as on 5.7.91. The juniors to the applicant continued to draw higher pay since then. As against the applicant's claim, the basis on which the respondents have decided not to pay the arrears, are available at Annexure A-6 dated 24.10.96. In short, the Principal of the School (respondent no.3) appears to have sent the details to the DDE(Accounts). The latter authority sent the papers back on the plea that there is no comparative statement or seniority list attached with the papers meant for sanctioning the arrears. Respondent no.3, vide his communication at

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Annexure A-8 dated 19.2.97, mentions that the applicant's case for payment of arrears could not be processed on account of the following :

(i) that seniority list not available;

(ii) that service books of the juniors officials who have favoured with the arrears are not available; and

(iii) that comparative statement of pay drawn by the juniors have not been annexed.

6. Learned counsel for the applicant submitted that the requirements as has been spelt out by respondent no.3 are to be complied with/furnished only by the respondents themselves. The applicant cannot be denied the arrears on the basis of documents which are in the custody of the respondents and the applicant is not expected to have access to them.

7. In the background of the aforesaid details, we find that the applicant's case deserves to be considered on merits. We therefore allow the O.A. with the following directions:-

(i) the respondents are directed to pay the amount of arrears due to the applicant following the orders at Annexure A-1;

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(ii) the respondents are directed to pay interest at the rate of 12% on the entire amount from the date the amount was due to the applicant till the date of payment;

(iii) the aforesaid directions shall be complied with by the respondents within a period of three months from the date of receipt of a certified copy of this order; and

(iv) in case the arrears are not paid to the applicant within the period stipulated by us, the respondents shall pay interest at the rate of 18% on the whole amount or the unpaid part as the case may be from the date it was due till the date of final payment.

8. The O.A. is disposed of with the above directions. No costs.

(KULDIP SINGH)
MEMBER(JUDL)

(S.P. BISWAS)
MEMBER(ADMV)

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