

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 495/1997

New Delhi, this the 4th day of March, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K.Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

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1. Shri O.P.Jhingran (Deceased)
R/o C-5A/285, Janak Puri, New Delhi.
2. Smt. Kusham Jhingran,
W/o Late Shri O.P.Jhingran
R/o C-5A/285, Janak Puri, New Delhi.
3. Rohit Jhingran
S/o Late Shri O.P.Jhingran
R/o C-5A/285, Janak Puri, New Delhi.
4. Nitin Jhingran
S/o Late Shri O.P.Jhingran
R/o C-5A/285, Janak Puri, New Delhi.
5. Ankar Jhingran
S/o Late Shri O.P.Jhingran
R/o C-5A/285, Janak Puri, New Delhi.

...Applicants

(By Advocate Sh. G.D.Gupta)

V E R S U S

1. Lt. Governor/Administrator Govt. of NCT
of Delhi, Raj Niwas, Delhi.
2. The Director of Education
Directorate of Education, Old Secretariat,
Delhi.

...Respondents

(By Advocate Sh. Vijay Pandita and
Sh. Mohit Madan, proxy for Mrs. Avnish Ahlawat)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

This Full Bench has been constituted in
furtherance of Tribunal's order dated 27-2-2001 in
which the following reference has been made :-

"Applicant and others similarly placed
would be entitled to the scale of the
post of PGT w.e.f. 3-1-1974, and if so
whether such entitlement would be with
all consequential benefits including
arrears of pay, seniority, retiral
benefits etc. or the aforesaid scale

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would be granted only on notional basis w.e.f. 3-1-1974 but without the benefits of arrears."

2. When this Full Bench met on the last date i.e. 11-10-2002, we were informed that Hon'ble Delhi High Court had recently taken a decision on the very issues raised before the Larger Bench as mentioned above. Sh. Mohit Madan, learned proxy counsel for the respondents has submitted a copy of the Delhi High Court's order dated 30-9-2002 in the case of The Director (Education), Govt. of NCT of Delhi Vs. Shri S.C.Sharma & Ors. (CWP 2053 of 2000 with connected cases), copy placed on record. Para 55 of the Hon'ble High Court's order reads as follows :-

"55. Promotion can be either to a post or scale of pay. It would, therefore, be not correct to contend that the Original Applicants herein are not asking for promotion but merely for a higher scale of pay. However, the respondents may consider the desirability of finding out a solution by issuing a suitable policy decision in terms whereof the seniors may not lose their seniority although ultimately they may not be given the benefit of scale of pay. The writ petitioners, in our opinion, would be well advised to take appropriate action against officers who are responsible for this cascading effect of wrong implementation of the judgment of this court. We may also observe that it will also be open to respondents to take appropriate action in the entire matter in accordance with law.

3. We note from the submissions made by Shri G.D.Gupta, learned counsel for the applicant that Shri Surjit Singh & Anr., CWP No.2155/2000, which was listed as case No.3, before the Hon'ble Delhi High Court has filed a Special Leave Petition, (SLP) No. 2486 of 2003 with connected case, which is pending before the Hon'ble Supreme Court. He has also submitted that he has been informed by the concerned counsel that

notices have been issued in the SLP by the Hon'ble Supreme Court to the opposite parties. In the circumstances, he has submitted that this reference to the Larger Bench may be placed in the sine die list with liberty to either of the parties to revive the same as and when the judgement of the Hon'ble Supreme Court is pronounced. 37

4. On the other hand, learned counsel for the respondents have submitted that this course of action may not be necessary as what will be binding on the parties, including the respondents, will be the decision of the Hon'ble Supreme Court which may either uphold the judgement of the Hon'ble High Court or pass any other orders as they deem fit. We note from the submissions made by the learned counsel for the parties that relevant facts and issues raised before the Larger Bench are sub-judice before the Hon'ble Supreme Court i.e. with regard to the benefits of higher pay scale, arrears of pay, seniority, retiral benefits etc. to the Drawing Teachers/Applicants who were working before 1973 i.e. the pay scale of the post of PGT w.e.f. 3-1-1974.

5. In the above facts and circumstances of the case, we consider that the interest of justice will be served by disposing of this reference to the Larger Bench with the following directions :-

The issues raised in the present OA will abide by the judgement of the Hon'ble Supreme Court in the above referred to SLP.

Accordingly both the reference to the Larger Bench as well as OA 495/97

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stand disposed of. However, as Shri G.D.Gupta, learned counsel submits that the applicants in the present case may have certain distinguishing features, liberty is granted to applicants to revive the OA, if so advised, in accordance with law.

S. Raju V.K. Majotra Lakshmi Swaminathan
(Shanker Raju) (V.K. Majotra) (Smt. Lakshmi Swaminathan)
Member (J) Member (A) Vice-Chairman (J)

/vksn/