

Central Administrative Tribunal
Principal Bench

RA 146/97

in

OA 691/95

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New Delhi this the 13th day of October, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Lt. Governor through
its Secretary,
Govt. of NCT, Sham Nah Marg,
Delhi.

Director of Education,
Directorate of Education,
Old Secretariat,
Civil Lines,
N.Delhi-110054.

... Review Applicants.

By Advocate Shri Bhasker Bhardwaj proxy for Shri Arun
Bhardwaj.

Versus

Badri Prasad Gautam,
S/o Shri Narain Pd. Gautam,
Vice Principal (Retd.),
R/o E-896, Saraswati Vihar,
Delhi.

... Respondent.

By Advocate Ms. Geetanjali Goel.

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Both learned counsel heard on the Review Application.

2. This Review Application was earlier disposed of by Tribunal's order dated 24.6.1997. However, on a petition filed by the review applicants in the Hon'ble High Court, the same was disposed of with certain observations that the impugned order dated 24.6.1997 is not sustainable and is accordingly set aside. RA 146/97 was remanded back to the Tribunal with a direction to decide the same after affording an opportunity of hearing to both the parties. That has been done today.

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3. The applicants in the RA have submitted that there is an error apparent on the face of the record of the judgement dated 8.1.1997 inasmuch as the review applicant had been directed to consider the services of the applicant for the purpose other than the purpose for which the applicant had prayed. Shri Bhasker Bhardwaj, learned proxy counsel, has submitted that part of paragraph 3 of the impugned order directing the respondents to refix the seniority of the applicant giving credit of the past services rendered by him in the State of Rajasthan to refix his pay, stepping up the same at par with that of his juniors and also to give him all consequential benefits, flowing therefrom was made beyond the scope of the prayers claimed by the applicant in the Original Application 691/95. Ms. Geetanjali Goel, learned counsel, has however, submitted that this is not correct as the applicant had prayed for quashing of the letter dated 27.5.1994 issued by Respondent 3. In particular she has stated that stepping up of pay of the applicant has to be done by the respondents which they have also agreed in Paragraph 6 of the Miscellaneous Application filed on 6.1.1997. Paragraph 6 of this MA (unnumbered) reads as follows:

"As far as the question of stepping up of the pay of the applicant is concerned for being made equal to the alleged junior, Mr. M.S. Panwar it is submitted that as per Hon'ble Supreme Court's order dated 16.8.94 the regularisation of the Vice-Principal has been reviewed and accordingly revised order of regularisation has since been issued. The matter of stepping up shall be taken up after the finalisation of seniority and Department has no reservation to grant the same if permissible under the Rules."

(Emphasis added)

4. In the light of the above facts and circumstances of the case, we agree with the contentions of the learned counsel for the applicants in RA 146/97 that there is a part error on the face of the impugned order dated 8.1.1997 to the

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extent of granting the credit of not only the past services rendered by the applicant in the State of Rajasthan but also regarding refixation of stepping up of pay of the applicant with that of his junior with all consequential benefits. The matter of stepping up of pay has to be finalised by the respondents after considering the case of the applicant regarding seniority in accordance with the relevant Rules.

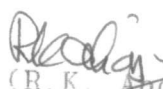
5. In the light of what has been stated above, RA 147/97 is allowed to the following extent:

In paragraph 3 of the impugned order dated 8.1.1997, from the fourth line starting from "In the result ^{18.} ~~that~~ order" shall stand deleted and substituted as follows:


"In the result, the respondents shall count the past services rendered by the applicant in the State of Rajasthan as Assistant Teacher, Senior Teacher and Head Master w.e.f. 6.8.52 ^{18.} ~~6.8.1951~~ to 11.12.1962. As regards his stepping up of pay, the respondents are directed to take a final decision in the matter after finalisation of his seniority in accordance with the extant rules within three months from the date of receipt of a copy of this order".

6. Registry to issue the above modification of the order dated 8.1.1997 immediately. RA 146/97 is disposed of as above.

7. In view of the above, MA 1381/97 and MA 1382/97 are also disposed of.


(R.K. Anooja)
Member(A)

'SRD'


(Smt. Lakshmi Swaminathan)
Member(J)

⊗ Corrected vide Contd. order
dated 17.5.2000