

Central Administrative Tribunal
Principal Bench, New Delhi.

6
O.A. Nos. 1405/94, 1406/94 & 1407/94

New Delhi this the 20th Day of January, 1995.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B. N. Dhoundiyal, Member(A)

OA-1405/94

Shri Jot Ram,
S/o Shri Desh Ram,
R/o Village Bharthal,
P.O. Bijwasan,
Delhi-1. Applicant

(through Sh. S.D. Sharma, advocate)

versus

1. Union of India,
through Secretary of Human
Resources Development Ministry,
Government of India,
New Delhi.
2. Delhi Administration,
through Chief Secretary,
Old Secretariate,
Delhi.
3. The Director of Education,
Directorate of Education,
Old Secretariate,
Delhi. Respondents

(through Sh. Amresh Mathur, advocate)

OA-1406/94

Shri Om Prakash Roy,
S/o Shri Sohan Lal Sharma,
R/o 18 Ishwar Colony,
Shamashah Road,
Delhi-9. Applicant

(through Sh. S.D. Sharma, advocate)

versus

1. Union of India,
through Secretary of Human
Resources Development Ministry,
Government of India,
New Delhi.
2. Govt. of National Capital Territory
of Delhi, through Chief Secretary,
Old Secretariate,
Delhi.

3. The Director of Education,
Directorate of Education,
Delhi Administration,
Old Secretariate,
Delhi. (F)
Respondents.

(through Sh. Amresh Mathur, advocate)

OA-1407/94

Shri Chattar Singh,
S/o Shri Mohkam Singh,
R/o C-9/136, Yamuna Vihar,
Delhi. (F)
Applicant

(through Sh. S.D. Sharma, advocate)

versus

1. Union of India,
through Secretary of Human Resources
Development Ministry, Government of
India, New Delhi.
2. Govt. of National Capital Territory
of Delhi.,
through Chief Secretary,
Old Secretariate,
Delhi.
3. The Director of Education,
Directorate of Education,
Old Secretariate, Delhi. (F)
Respondents

(through Sh. Amresh Mathur, advocate)

ORDER(ORAL)

delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C. (J)

The controversy involved in these three
O.A.s is the same. They have been heard together and
they are being disposed of by a common judgement.

The applicants were at the relevant time
Senior Scale Teachers. They were given P.G.T. scale
from the year 1980. The controversy raised in this
O.A. is as to whether they should have been given
P.G.T. scale from the year 1973.

A counter-affidavit has been filed on
behalf of the respondents. The admitted facts appear
to be these. Some teachers who were in the senior

scale and who were better qualified than the applicants were given P.G.T. scale in the year 1973. The applicants acquired the higher qualification in the year 1980. In 1978 one Sh. M.L. Sharma, similarly situated as the applicant preferred a Civil Writ Petition No.1479/78 in the High Court of Delhi. This petition was disposed of by a learned Single Judge on 20.12.1985. He, in substance, held that Sh. Sharma should have been given the P.G.T. scale from the year 1973. The applicants remained inactive from 20.12.1985 onwards. The applicants preferred an O.A. No.2704/91. In this O.A., the principal relief claimed was that the respondents may be directed to place the applicant therein at par with Sh. Sharma. A two-Member Bench of this Tribunal, of which, one of us (Hon'ble Sh. S.K. Dhaon) was a Member disposed of the aforesaid O.A. and directed the Director concerned to dispose of the representation of the applicants. In pursuance of the said directions, the representations of the applicants have been disposed of on 2.7.1993 though by a non-speaking order. Now, in this O.A., the principal relief claimed is that the applicant should be given P.G.T. scale from the year 1973.

In the counter-affidavit filed, no specific plea of limitation has been raised. However, some sort of plea of estoppel and acquiescence has been taken and that is based on the fact that the applicants have been sleeping over his rights since 1980.

At the outset, the learned counsel for the respondents has raised the plea of limitation. Since this plea goes to the root of our jurisdiction and involves a pure question of law and the necessary facts are before us, we have entertained the plea. Prima facie, it appears that O.A.No.2704/91 which was disposed of on 12.4.1993 was barred by limitation. However, since no decision has been given either way in the said O.A., it cannot be said that the question of limitation was duly considered while disposing of O.A.No.2704/91. Therefore, the respondents are not estopped from raising the plea of limitation now.

A somewhat similar controversy came up before us in O.A.No.401/90 decided on 11.1.94. In it, it was held that all the Senior Scale teachers should be put at par with the other Senior Scale teachers who have been given P.G.T. scale under the orders of High Court of Delhi or under the orders of this Tribunal. While dealing with the question of limitation, we took the view that under the circumstances of the case, the ratio of the judgement of the Hon'ble Supreme Court in the case of Bhoop Singh was not applicable and we, therefore, while adjusting the equities between the parties directed that the applicants therein should be given P.G.T. scale not from the year 1973 but from the date on which they presented the O.A. before this Tribunal. We are not inclined to depart from the said judgement in this case. We have already indicated that the applicants were given P.G.T. scale in the year 1980.

80

Our attention has been drawn to the contents of para-1 of the application where it is recited that certain teachers junior to the applicants have been given P.G.T. scale from the date from which it was made applicable to the Drawing Teachers i.e. on 1.10.1973 and vide its office order dated 1.9.1990 issued by the Directorate of Education in pursuance to the directions given by this Tribunal in CCP No.106/88 in T-75/85. On the face of it, the applicants cannot derive any advantage of the order dated 1.9.1990 passed by the Directorate of Education. It was obviously passed in pursuance of the directions given in CCP No.106/88. It appears from the averments of the applicant that those teachers had preferred some writ petition in the Delhi High Court which stood transferred to this Tribunal and the same was registered as T-75/85.

Assuming the decision initiated by us in O.A.No.401/90 should be made applicable in the case of the applicants i.e. fixation of P.G.T. scale from the date of which O.A. No.401/90 was presented in this Tribunal, the applicant cannot derive any advantage therefrom. This is so because they have already been given P.G.T. scale in the year 1980. We, therefore, come to the conclusion that, in the circumstances of these cases, the applicants are not entitled to any relief. The applications are dismissed but without any orders as to costs.

(B.N. Dhondiyal)
Member(A)
/vv/

(S.K. Dhaon)
Vice-Chairman(J)

(S. N. Shah)