

Central Administrative Tribunal
Principal Bench

(AP)

O.A. 1879/94

New Delhi this the 31st day of January, 1997

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

Hon'ble Mr. K. Muthukumar, Member(A).

1. Govt. Adult Schools,
Part Time Teachers Association (Regd.),
Office at B-17-B, Block-E,
Madipur, New Delhi
through General Secretary Sh. A.P. Chaturvedi.
2. Shri Onkar Singh,
S/o Shri Bhim Singh,
C/o Govt. Adult Sr. Secondary School,
Mori Gate,
Delhi.

...Applicants.

By Advocate Mrs Meera Chhibber.

Versus

1. The Director of Education,
Directorate of Education,
Delhi Administration,
Civil Lines, Old Secretariat,
Delhi.
2. The Lt. Governor,
Delhi Administration,
Raj Niwas Marg,
Raj Niwas,
Delhi.

...Respondents.

By Advocate Shri Jog Singh.

O R D E R (Oral)

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

This application has been filed by Applicant 1 which is an association of Part-Time Teachers, originally on behalf of 41 Members but is now being pursued only by 35 members, as modified by the M.A. 1764/96. In other words, the applicants at Serial Nos 13, 23, 25, 29, 33 and 39 are deleted and the remedies have been pursued only in respect of the balance 35 applicants.

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2. The brief facts of the case are that the applicants are Part Time teachers of Govt. Adult Schools. According to them, they have been working in this capacity for a period between two to seven years and they also state that most of the teachers are Post Graduate and Graduate trained teachers and have acquired special skills and experience in their respective fields of teaching. The applicants further state that they have been appointed at a fixed salary for taking the adult classes in various schools under Delhi Administration. Their grievance is that they have not been regularised so far and have been continued to be paid an amount of Rs.625/- for PGTs and Rs.500/- for TGTs, ^{18.} ^{and} ~~The grievance of the applicants is~~ that while recently the respondents had appointed 1350 PGTs/TGTs without conducting any test or interview, they who had continued for a number of years, as Part Time teachers ^{even 18.} ~~even~~ had not ^{18.} been considered and given the benefit of regularisation in these posts. Mrs. Meera Chhibber, learned counsel for the applicants, relies on the judgement of the Supreme Court in Subhash Chandra Sharma Vs. Director of Education & Anr. (Writ Petition (Civil) No. 1350 of 1990), dated 30.4.1991 (copy placed at pages 64 and 65 of the paper book). She submits that a similar direction as was given by the Supreme Court may be granted directing the respondents to regularise ^{and 18.} the applicants subject to selection test/eligibility, ^{and 18.} qualifications, other than the age criteria, as some of them are overaged, within a specified time for any vacancies that may still exist. She also relies on the recent judgements of the Supreme Court in Baseruddin M. Madari & Others Vs. State of Karnataka & Others, 1996(32) ATC 102 and Raj Pal Vs. State of Haryana & Ors., 1996(33) ATC 292.



3. The respondents have filed their reply and we have also heard Shri Jog Singh, learned counsel. According to the respondents while the applicants are efficiently functioning, as per rules and on the basis of the contract, at the time of appointment they have no claim for regularisation/absorption. They have also submitted that they have increased the amount of fixed honorarium/salary for PGTs and TGTs in the year 1984 upto Rs.625/- p.m. and Rs.500/- p.m., respectively. They have further submitted that Part-Time teachers are not Government servants. Their stand is that the applicants being Part-Time teachers cannot claim for regularisation/absorption and that they cannot be equated with regular employees as the terms and conditions of the regular teachers and the part-time teachers are absolutely different.

4. We have carefully considered the pleadings and submissions of the learned counsel for both the parties.

5. In Subhash Chandra Sharma's case (supra), the applicants, who were 22 PGTs and TGTs who had been continuing as part-time teachers for more than 8-10 years had also sought directions for regularisation. The Supreme Court disposed of the petition with the following directions:

"(1) With three months hence, the respondent-Director of Education shall hold a selection test for 22 teachers with a view to regularise them.

(2) The question of bar of age shall not be raised against them in view of the fact that they have been already in employment.

(3) Those of them who are found successful at the selection test shall be forthwith regularised and in regard to others, they may be continued in service provided there is temporary vacancy".

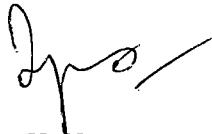
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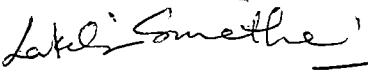


6. From the facts narrated above, it is seen that the applicants can be considered to be similarly situated as the applicants before the Supreme Court in the aforesaid case, inasmuch as they are also part-time TGT/PGT teachers who have been continuing in that capacity for a number of years.

7. Therefore, in the light of the Supreme Court judgement, the respondents ought to consider the applicants also for regularisation in the vacant posts of teachers after holding suitable selection test as they have held in the other cases, with relaxation of age if necessary, as they are already in employment. In other words, the respondents ought not to discriminate against the applicants, when in all other aspects they fall on all fours with the applicants in Subhash Chandra Sharma's case(supra). The respondents shall hold the selection test for regularisation of the applicants within a period of three months from the date of receipt of a copy of this order and in the meantime the applicants shall be continued on the same terms and conditions. Those who are not successful in the test may be continued in service provided there are vacancies for them.

8. O.A. disposed of as above. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'