

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1325/2000

(15)

New Delhi, this day the 21st. September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

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Reddy, Principal, JNV, Vizayanagaram (A.P)
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58. Shri M.A. Sikandar S/o Er. M.A. Wahab Rowther Assistant, NVS HQrs, A-39, Kailash Colony, New Delhi
59. Shri T. Surya Prakash S/o Shri I.G. Krishna Murthy, Assistant, NVS HQrs, A-39, Kailash Co

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66. Shri Tek Ram Sharma S/o Shri Dharam Prakash
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New Delhi
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Choudhury, Driver, NVS Hqrs, A-39, Kailash Colony,
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68. Shri Ram Avtar, S/o Shri Shiv Lal, Driver, NVS
HQrs, A-39, Kailash Colony, New Delhi
69. Shri G.S. Rajawat, S/o Shri H.S. Rajawat,
Lab. Attendant, JNV, Multan, Dhar, MP
70. Shri Ram Dayal S/o Shri Babu Lal verma, Cook,
JNV, Ratibad, Bhopal, M.P.
71. Shri Munna Lal, S/o Shri Ram Avtar,
Sweeper-cum-Chowkidar, JNV, Gauriganj,
Sultanpur (U.P.)
72. Shri R.B. Singh, S/o Shri Mahadeo Singh, Mess
Helper, JNV, Gauriganj, Sultanpur (U.P.)
73. Shri Vivek Yadav, S/o Late Shri U.P. Singh,
Catering Asstt., JNV, Gauriganj, Sultanpur (U.P.)
..... Applicants
- (By Advocate : Ms. Maninder Acharya)

Versus

1. Navodaya Vidyalaya Samiti through
Director, A-39, Kailash Colony, New Delhi-110048
 2. Union of India through Secretary,
Department of Secondary Education and Higher
Education, Ministry of Human Resource
Development, Shastri Bhawan, New Delhi
 3. Union of India through Secretary (Expenditure)
Department of Expenditure,
Ministry of Finance, North Block, New Delhi
- (2)

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4. Union of India through Secretary,
Department of Pension and Pensions Welfare,
Ministry of Personnel, Public Grievances &
Pensions, New Delhi

..... Respondents

(By Advocate : Shri S. Rajappa for respondent 1

None for respondents 2,3 and 4)

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O R D E R

By Shri S.A.T. RIZVI, Member (A) :

The applicants, 73 in number, working as Principals, Vice Principals, PGTs, TGTs etc. in the schools run by the Navodaya Vidyalaya Samiti (NVS), a body registered under the Societies Registration Act, pray for a direction to the respondents to extend the benefit of the Central Government Pension Scheme to them w.e.f. 1.1.1998, which is the date from which pensionary benefits have been allowed to the employees of the Indian Institute of Public Administration (IIPA). Accordingly they also seek a direction to the respondents to implement the recommendations of the 4th CPC in relation to them.

2. The matter regarding extension of pensionary benefits on par with the Central Govt. employees in favour of the applicants remained under consideration at the highest levels in the Government of India. However, by the D.O Letter dated 17.11.1997 (Annexure P-1) from the Minister of State for Finance to the Minister of State for Education, the aforesaid plea has been negatived, inter alia, on the ground that in view of the present resource crunch, the Govt. of India find it difficult to support the proposal in question. The matter was taken up once again at the level of Union Ministers of HRD and Finance. However, once again the Union Finance Minister has

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negatived the aforesaid plea by and large on the same ground. This has been done by Union Finance Minister's D.O. letter to the Union Minister for HRD dated 5.2.1999 (Annexure P-2). The applicants are obviously aggrieved by the decisions conveyed in the aforesaid letters dated 17.11.1997 and 5.2.1999.

3. We have heard the learned counsel on either side and have perused the material placed on record.

4. The learned counsel appearing in support of the OA has drawn our attention to the policy document issued by the Government of India known as Programme of Action (national policy on education 1986) wherein amongst other things the following provision has been made:

"Recruitment and old-age benefits and medical-care - All teachers in Government local bodies and in institutions created by Government or by Acts of Parliament/State Legislatures will be eligible for retirement and medical benefits identical with Government servants. Teachers in aided and private institutions will also be eligible for such benefits in accordance with such directions as may be issued by the Government from time to time"

5. The learned counsel has argued that the aforesaid policy document has had the approval of the Union Cabinet, which is the highest decision making body. The NVS, according to him, is an institution created by the Government and, therefore, going by what has been stipulated in the paragraph reproduced above, the Union Government is committed to extend the retirement benefits to the applicants as well on par with such benefits made available to the Central Government employees.

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6. The learned counsel has also submitted that the benefit of the pension scheme on par with the Central Government Pension Scheme has already been extended to similarly placed institutions such as Kendriya Vidyalaya Sangathan (KVS) which also happens to be a Society under the Societies Registration Act. In addition, according to ~~him~~, the aforesaid scheme has been extended also to the employees of the Central Tibetan Schools Administration (CTSA). Similar benefits have been made available also to the National Open School (NOS), again a Society registered under the Societies Registration Act. This has been done much after the establishment of the NVS, respondent 1 herein. The pension scheme has also been applied to the Indian Institute of Public Administration (IIPA), Indira Gandhi National Open University (IGNOU), National Human Right Commission (NHRC), National Council for Education, Research & Training (NCERT) and Central Board of Secondary Education (CBSE). Pensionary benefits have also been made available to the Life Insurance Corporation of India employees along with the employees of General Insurance Corporation of India, National Insurance Company Limited, The New India Assurance Company Limited, The Oriental Insurance Company Limited and the United India Insurance Company Limited.

7. Having regard to the facts brought out in the previous paragraph, the learned counsel appearing on behalf of the applicants has submitted that ~~by~~ not extending the pension scheme to the applicants, the respondents have discriminated against the applicants and

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the same constitutes violation of provisions of Article 14 and 16 of the Constitution.

8. The learned counsel appearing on behalf of the NVS, respondent 1 herein, has advanced the plea that even though there is a good case for extending the pensionary benefit in favour of the applicants as well, the NVS by themselves are not in a position to implement the pension scheme in relation to the Principals, Vice Principals, etc. etc. working under them. The main problem is the availability of sufficient funds on a recurring basis ^{and} without Government's financial support, the benefit of the pension scheme cannot be extended so as to cover the applicants.

9. The learned counsel appearing on behalf of the official respondent Nos. 2, 3 and 4, has in his submissions, reiterated more or less what has already been stated by the Union Finance Minister in his letter to the Union Minister for HRD dated 5.2.1999 which, in turn, covers the points made in the other impugned letter dated 17.11.1997.

10. We have considered the issue carefully and find that matters such as these are necessarily policy matters and, therefore, decisions taken by the Union Government in relation to them cannot and should not be interfered with. We have also gone through the reasons assigned by the aforesaid official respondents in support of the denial of the pension scheme insofar as the applicants are concerned. The financial liability likely

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to arise in consequence of the extension of pensionary benefits to the applicants will constitute avoidable burden on the finances of the Union Government and besides similar demands will then be made by a number of other autonomous/statutory bodies presently receiving grants-in-aid from the Government. The Government will find it much too difficult to resist such demands. The impugned letter dated 5.2.1999, we find, contains a word of sane advice which could be considered by the NVS so as to extend ^{& similar} some benefit to their employees. The suggestion made in the aforesaid letter is to the effect that the NVS may consider working out a suitable annuity scheme through the LIC based on voluntary contributions by the employees through a fund outside the body and without any liability on the Government. Alternatively, according to the same letter, the NVS employees may continue to be governed by the CPF Scheme or join the pension scheme for the Provident Fund subscribers introduced by the Ministry of Labour.

11. We also find that a question in regard to non-extension of pensionary benefits in favour of the applicants was raised in the Rajya Sabha on 16.3.1999 and the same was answered in the following terms:

"Regular pensionary benefits are costlier than the Contributory Provident Fund Scheme which generally exists in organisations which receive grants-in-aid from the Central Government. Payment of pension is a recurring liability as compared to the one-time settlement under the Contributory Provident Fund Scheme. For these reasons, Governments are not generally in favour of extension of pensionary benefits to autonomous organisations, etc. However, such organisations can introduce suitable annuity schemes for their employees"

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By the aforesaid answer, the Union Finance Minister has taken the Indian Parliament also in confidence about the policy decision in question which does not favour extension of pensionary benefits to the applicants.

12. Furthermore, the official respondents have submitted that the Central Government's pension liability has reached unsustainable proportions and as a percentage of GDP, it has risen from 0.5% in 1993-94 to 1% in 2000-2001. In the Budget speech (2001-2002) made in Parliament, the Union Finance Minister has proposed that persons who enter Central Govt. service after 1st October, 2001 would receive pension through a new pension programme based on defined contribution. A High Level Expert Group has also been proposed with a view to reviewing the existing pension system.

13. Having regard to the facts and circumstances brought out in the preceding paragraphs, we also conclude without hesitation that the policy decision taken by the Government denying the benefit of pension to the applicants is based on sound and justifiable considerations entirely in the public interest. The ground of discrimination pleaded on behalf of the applicants cannot also be sustained inasmuch as having regard to the public interest involved, the Government can always exclude Bodies and Organisations such as the NVS from the extension of benefits under the Pension Scheme. The policy decision in question cannot be said to be perverse nor malafide nor does it suffer from the vice of arbitrariness. Articles 14 & 16 of the Constitution are, therefore, not hit.



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14. Moreover, a High Level Expert Group, as submitted by the learned counsel for the official respondents, is likely to review and examine the existing pension system so as to reach certain conclusions with regard to the Bodies such as NVS as well. The chapter is, therefore, not closed for ever. We also hope that having regard to the fact that the aforesaid policy document, namely, Programme of Action was issued with the approval of the Union Cabinet, the official respondents will, no doubt, have the matter in controversy in this OA placed before the Union Cabinet in due course and convey the final decision of the Government in the matter as expeditiously as possible. We do not consider it necessary to fix any time frame for this purpose.

15. For all the reasons mentioned in the preceding paragraphs, the OA fails and is dismissed without any order as to costs.

S.A.T. Rizvi

(S.A.T. RIZVI)
MEMBER (A)

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)

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