

Central Administrative Tribunal
Principal Bench

O.A. 1336/2000

New Delhi this the 20 th day of September, 2001

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

Shri B.K. Gupta,
son of late Shri P.D. Vaish,
R/o A-196, Vivek Vihar,
Delhi-110 095. ... Applicant.

(By Advocate Shri K.N. Bahuguna)

Versus

1. Chief Secretary,
Govt. of NCT of Delhi,
Sham Nath Marg,
Delhi-110 054.
2. Director of Education,
Old Secretariat,
Delhi-110 054. ... Respondents.

(By Advocate Mrs. Meera Chhibber)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

In this application, the applicant seeks implementation of the judgement of the Tribunal dated 8.2.2000 in OA 2386/1999, which has been wrongly mentioned as O.A 7306/1999, in the O.A. as admitted by the learned counsel for the applicant during the course of hearing.

Shri K.N. Bahuguna, learned counsel, has relied on the order of the Tribunal in O.A.206/2000 dated 26.7.2000 and the order dated 4.6.1996 in O.A.1578/91 (copies placed on record), in which one of us (Mrs. Lakshmi Swaminathan) was also a Member, in which certain directions were given to the respondents to consider the case of the applicant for grant of pay in the scale of Rs.2200-4000. In O.A.206/2000, reference has been made to O.A. 2386/99 (Gajraj Singh & Ors. Vs. Govt. of NCT & Ors.) which was

disposed of, directing the respondents to consider the claim of the applicants for grant of Selection Scale in terms of their order dated 29.10.1998.

2. In para 8 of the O.A., he has prayed for the following reliefs:

(a) direct the respondents to implement their order dated 29.10.98 (ANNEXURE A/3); as also this Hon'ble Tribunal's order dt. 8/2/2000 (ANNEXURE A/1);

(b) direct the respondents to pay the applicant the selection scale in the scale of 2200-4000 with effect from 1.3.1991 and direct the respondents to make payment of the arrears with interest @ 24% per annum;

(c) direct the respondents to revise the pension and other retiral dues along with arrears on the basis of the order dated 29.10.1998 and make payment to the applicant;

(d) pass such other or further orders as this Hon'ble Tribunal deems fit".

3. In the aforesaid O.A. 2386/99, the applicants had also wanted implementation of the respondents' order dated 29.10.1998 which is also the contention of the applicant in the present O.A. The Tribunal by its order dated 8.2.2000 had, after considering the delay in implementing the order dated 29.10.1998, directed the respondents to make payment to the applicants expeditiously with interest. Thereafter, the respondents have submitted that necessary clarifications sought by the concerned Deputy Directors of Education (District) have been provided by O.M. dated 5.5.2000. This O.M. has been issued in pursuance of the Tribunal's order dated 8.2.2000. Later, the applicants in O.A. 2386/99 had filed CP 221/2000, alleging contumacious non-compliance of the Tribunal's order dated 8.2.2000. In

the CP, it has been observed, inter alia, that the respondents have issued Memo dated 5.5.2000 stating that upon reconsideration of the matter in the light of the relevant Rules and instructions, it transpired that the applicants were promoted as Vice Principals before they had completed 12 years service in senior grade of Rs.2000-3500, and hence they were not entitled to placement in the selection scale of Rs.2200-4000. In the facts and circumstances of the case, CP 221/2000 was dropped in view of the Memo dated 5.5.2000 passed by the respondents which gives the applicants a fresh cause of action which they may assail in accordance with law, if so advised.

4. Taking into account the aforesaid order of the Tribunal dated 8.2.2000 read with the order dated 18.5.2001 in CP 221/2000 in OA 2386/1999, we do not find any merit in this application as the order which the applicant is relying upon has itself not been implemented by the respondents in his favour. Apart from that, Mrs. Meera Chibber, learned counsel, has submitted that in the case of the applicant, the separate O.M. dated 22.8.2000 has been issued with respect to his claims. In this O.M., reference has also been made to the aforesaid order of the Tribunal in O.A.2386/99 in the matter of grant of selection scale of PGTs. Shri K.N. Bahuguna, learned counsel, has submitted that the O.M. dated 22.8.2000 has been issued after this O.A. has been filed on 18.7.2000. Nevertheless, there is no explanation as to why the applicant has not cared to challenge the order passed by the respondents dated 22.8.2000 denying him the benefit of selection scale in PGT. Besides, considering the fact that the applicant's

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main claim under paragraph 8 (a) is for a direction to implement the order dated 29.10.1998 in terms of the Tribunal's order dated 8.2.2000 in O.A.2386/99, read with the aforesaid orders of the Tribunal in that very O.A.itself, no such relief can be granted at this stage. However, taking into account the facts and circumstances of the case, liberty is granted to the applicant to proceed in the matter in accordance with law and rules, as advised.

5. In the result, for the reasons given above, there is no merit in this application. The O.A. fails and is dismissed. No order as to costs.

Arif Rizvi

(S.A.T. Rizvi)
Member(A)

'SRD'

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)