

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1409/2000

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New Delhi this the 31st day of August, 2001

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri M.P.Singh,Member (A)

1. Shri R.S.Rathi,
S/O Shri Prithvi Singh,
R/O C1/32, Yamuna Vihar,
Delhi-110053

2. Sh.Irshad Ali
S/o Shri Akbar Ali
R/O C 6/191, Yamuna Vihar,
Delhi 110053.

3. Sh.Hari Chand
C/O Sh.Bhikkan Singh
R/O C8/ 114, Yamuna Vihar,
Delhi.

..Applicants

(By Advocate Shri Surinder Singh)

VERSUS

1. Govt.of NCT of Delhi,
through Secretary, Education,
Old Secretariat, Delhi.

2. The Director of Education,
Old Secretariat, Delhi.

3. The Deputy Director of Education
(North East), 'B'Block, Yamuna Vihar,
Delhi-110053

.. Respondents

(By Advocate Mrs.Meera Chhibber)

O R D E R (ORAL)

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

This application has been filed by three applicants claiming stepping up of their pay at par with one Shri D.D.Agarwal whom they claim is their junior.

2. During the hearing, Shri Surinder Singh, learned counsel has submitted that the application survives with regard to two applicants, namely, applicants No.1 and 3 as applicant No.2 is satisfied with the action by the

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respondents during the pendency of the OA. Therefore we are only concerned with the claims preferred by applicants 1 and

3. Their claim is that their pay should be stepped up with Shri D.D.Agarwal as PGT, who has been drawing higher salary from 1.1.1997 i.e Rs.9900/-PM whereas the applicant No.1 has been drawing Rs.9700/-PM and applicant No.3 Rs.9500/-PM.

3. According to the respondents with regard to applicant No.1, he had already got stepping up of pay in the scale of pay of Rs.1640-2900 against his junior counter-part Shri N.S.Tyagi, PGT by Order dated 3.8.1993. Mrs.Meera Chhibber, learned counsel has relied on the Govt.of India, Department of Personnel and Administrative Reforms instrcutions reproduced in Smamy's Fundamental Rules below FR 22 which reads as below:-

" It is clarified that the benefits of stepping up of pay can be allowed to a senior official, second time, provided the anomaly has arisen with reference to the pay of the same junior, with reference to whom the pay of senior was stepped up first time. Type of cases quoted below can be examined and decided at their own merits in consultation with this Department as and when they occur."

4. Shri Surinder Singh, learned counsel has not been able to satisfy us as to why the above clarifications issued by the Government are not applicable to the case of applicant No.1 who has already got the benefit of stepping up of pay vis-a-vis Shri N.S.Tyagi (PGT). In the facts and circumstances of the case, we, therefore, see force in the contentions of Mrs.Meera Chhibber, learned counsel that applicant No.1 cannot now claim stepping up of pay with reference to another junior, namely, Shri D.D.Aggarwal. Therefore, the claim of the applicant cannot be agreed to on this ground.

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5. Apart from that, we also note from the averments made by the respondents in their reply that the aforesaid two applicants and Sh.D.D.Aggarwal are in different subjects as PGT. Applicant No.1 has claimed seniority as PGT over Shri D.D.Aggarwal who is in Pol.Science whereas applicant No.1 is in Geography. Therefore, on these grounds also the application with respect to applicant No.1 cannot be allowed for stepping up of his pay at par with Shri D.D.Aggarwal, PGT.

6. Another relevant factor to note is that the respondents have stated that with regard to pay fixation of Shri D.D.Aggarwal it has been erroneous as there was no question of option on promotion on ad hoc basis, which is, therefore, not in accordance with law and rules. Further, action taken by the respondents with regard to Sh.D.D.Aggarwal, in any case cannot assist the applicants in this case.

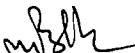
7. With regard to the claim of applicant No.3 for stepping up of pay at par with Sh.D.D.Aggarwal, PGT, the stand taken by the respondents is stated in Para 10 of their reply. In the rejoinder, the applicant has submitted to the contrary that he had given an option but the same had not been accepted by the School. However, Mrs.Meera Chhibber, learned counsel has submitted that whether the applicant had exercised his option or not can only be verified from the Service Book from which according to them, he had not exercised the same. Applicant No.3 has retired from service in 1997 and this OA has been filed on 26.7.2000. If as contended by the applicant, he had indeed exercised the option then, it was open for him to have pursued his remedies in time which

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apparently he has failed to do. In the circumstances of the case, we see no reason to disbelieve the entries in the Service Book as referred to by the respondents that he had not exercised his option in time regarding refixation of his pay in the new scale after 1996. From the documents and records we, therefore, find no justification to disbelieve the averments made by the respondents based on the entries in the Service Book of Applicant 3. In the circumstances of the case, the claim of the Applicant no.3 that there is ^{an infirmity} in the pay fixation of his pay or stepping up his pay at par with Sh.D.D. Aggarwal cannot be agreed to.

8. In the result, for the reasons given above, the OA fails and is dismissed. No order as to costs.


(M.P.Singh)
Member(A)

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(Smt. Lakshmi Swaminathan)
Vice Chairman(J)