

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1698/2000

New Delhi this the 31st day of August, 2001.

Hon'ble Shri Shanker Raju, Member (J)

1. Shri Bhoo Dev Sharma,
S/o Shri Jagdish Prasad Sharma,
R/o A-30, Basant Gaon,
New Delhi-110057.
2. Shri N.K. Bhardwaj,
S/o Late Shri Tula Ram,
R/o 673, Chirag Dilli,
New Delhi - 110017.
3. Shri S.D. Mishra,
S/o Shri Satya Narain Mishra,
R/o F-1755, Tigri (Khan Pur),
New Delhi - 110062.
4. Shri K.D. Shukla,
S/o Shri Ganga Prasad Shukla,
R/o F-1751, Tigri,
New Delhi - 110062.
5. Shri K.K. Jha,
S/o Late Shri Bholu Nath Jha,
R/o A-30, Basant Gaon,
New Delhi - 110057.
6. Shri Tej Pal,
S/o Shri Daya Ram,
R/o B-98-1, Kondli Basti,
Delhi - 110096.
7. Shri Rama Kant,
S/o Shri Ganga Swarup,
R/o F-100, Kondli,
Delhi - 110096.
8. Shri Ved Ram,
S/o Ram Dayal,
R/o R.Z.H.-36D,
Pul Prahladpur,
Delhi-110044.

....Applicants

(By Advocate Shri Shukla)

Versus

1. Directorate of Education,
Govt. of NCT of Delhi.
Old Sectt.,
Delhi- 110054.
2. Dy. Director of Education (South),
Distt. South Education Office,
Defence Colony,
New Delhi.

....Respondents

(By Advocate Mrs. Avnish Ahlawat)

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MA for joining together is allowed. MA No.594/2001 as well as MA No. 164/2001 praying for a stay order against the respondents from acting on the report of Shri Santriwal as well as for making an enquiry before the Metropolitan Magistrate and resort to proceedings Under Section 340 CRPC for false deposition against the respondents are rejected on the ground that one Shri V.P. Santriwal who sent the NIL report has taken over as officiating Vice Principal on superannuation of his predecessor Vice Principal Shri report has taken over as forwarding Vice Principal on superannuation of his predeceasing Vice Principal Shri I.S. Rathi on 31.01.2001. Shri I.S. Rathi has himself filed the parawise comments with reference to the MA taking up proceedings for forgery wherein it has been stated that the certificate dated 01.04.1998 is not relevant as subsequently right from 1998 it has been written to the Administrative Officer that no part time teacher TGT or PGT has joined the school w.e.f. 01.03.1998 till date. I am satisfied that the claim of the applicant in MA 164/2001 is not enforceable and justifiable.

2. Briefly stated, the applicants have been appointed as Part Time TGT/PGT teachers and have been serving with the respondents. The applicants allege that they have been working at par on same conditions as regular full time teachers and the Directorate of Education by an order has increased remuneration/payment to part time Sweepers, Watermen, Malis etc. The applicants have been given artificial breaks and have been exploited by denial of

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replacement of fixed pay on the principle of Equal Pay for Equal Work and entitlement to more than minimum wages as enforceable to the category in the Govt. of NCT. Learned counsel for the applicant states that they had been working since 1989-1991-1993 and have been appointed on fixed pay basis. The applicants further contended that by certificate issued by the Vice Principal they have not shown working regularly from 01.03.1998 but have been prevented from joining duty. Taking resort to Articles 14 and 16(1) of Constitution of India and the concept of the equality in the matters of pay and allowances, it is stated that they are entitled for revision of their wages as resorted to in the cases of other categories like Sweepers etc. as per the decision of Directorate of Education.

3. Strongly rebutting the contentions of the applicant, learned counsel for the respondents states that in earlier OA No. 2407/1997, the petitioner therein who is also an applicant in the present case has sought holding of special test to regularise them which was dismissed on 10.09.1999 with the observation that if they apply for regularisation at the time of regular selection and if the Rules and instructions permit age relaxation, the respondents are at liberty to grant them regularisation having regard to length of service. It is also stated that the claim of the applicants for fixed salary is not justifiable as they are not attending the school w.e.f. 01.03.1998. It is stated that OA No. 1879/1994 was filed by the Govt. Adult Schools, Part Time Teachers Association

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wherein the directions have been issued to hold a selection test for regularisation. The process for a written test was initiated by letter dated 28.08.1997 and the same was held on 23.09.1999. The candidates who passed the test continued in service. The applicants and the failed candidates have stopped attending the school w.e.f. 01.03.1998. In one of the cases of OA No. 898/1998 the request for regularisation is rejected by an order dated 15.04.1999. It is also contended that the applicants are to get the benefits if they pass the written test and having failed they are not entitled to the benefit and the working hours of the applicants are from 6.30 P.M. to 9.30 P.M. whereas for regular teachers the working hours are from 4.30 P.M. to 9.30 P.M. as such being un-equals they cannot be treated equally. It is also stated that the applicants have not performed the same duties as done by full time teachers. The applicants have also filed the rejoinder reiterating on their pleas taking in O.A.

4. As regards the plea for regularisation is concerned, the applicant has not claimed the same in the present OA and rather they have sought for replacement of fix pay on the basis of Doctrine of Equal Pay for Equal Work. Their resort to claim replacement of wages as accorded to Part Time Sweepers and Malis's etc. is not legally tenable as they have not worked after 01.03.1998 which has been reflected from the documents produced by the respondents including the letter written by the Vice Principal as the wages have been revised by the Lt. Governor

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w.e.f. 01.11.1999 vide order dated 11.02.2000. In case of Part Time Sweepers, Mali's etc. the same cannot be applicable as the applicants have abandoned their service and have not attended the school w.e.f. 01.03.1998. The applicants have also failed to produce the evidence to show that they had been working w.e.f. 01.03.1998 or have been prevented from performing duties by the respondents rather the documents produced by the respondents do indicate that the applicants have not attended the school as such having regard to the fact that they have not been working they are not legally entitled for any replacement of fixed pay. The resort of the applicant to claim Equal Pay for Equal Work and their comparison to the full time teachers is concerned, the same has no legs to stand. The applicants are working from 6.30 P.M. to 9.30 P.M. whereas the regular teachers perform duties from 4.30 P.M. to 9.30 P.M. The applicants have also failed to qualify the test for regularisation as such they are not identically situated and cannot claim any parity in the matter of pay and being not similarly situated in all respects they cannot be meted out an equal treatment.

5. In my considered view, there is no violation of article 14 and 16 of the Constitution of India. In the result and having regard to the reasons recorded, the present OA is bereft of merit and is dismissed but without any order as to costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)