

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 2197/2000
P.L.A.No.

Date of Decision 14.3.2002

Smt. Manjula Rani ... Petitioner
Shri P.S. Mahendru ... Advocate for the Petitioner(s)

VERSUS

Govt. of NCT of Delhi ... Respondent
through Secretary, Deptt. of
Education & Culture

Shri Ajesh Luthra ... Advocate for the Respondent(s)

Constituents

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V. K. Majotra, Member (A)

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2197/2000

New Delhi this the 14th day of March, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Smt. Manjula Rani,
W/O Sh. Shiva Raj B. Mathur,
R/O QU-274, Chitrakoot,
Pitampura, Delhi 110034

.. Applicant

(By Advocate Shri P.S. Mahendru)

VERSUS

1. Govt. of National Capital Territory of Delhi, through Secretary, Deptt. of Education, Delhi Administration, Old Sectt., Delhi.
2. The Director of Education, Directorate of Education, Old Secretariat, Delhi.
3. Mrs. Sudesh Kumari (alias Mrs Sudesh Wadhwa), Vice Principal, Sarvodaya Kanya Vidyalaya, Service to be effected through the Director of Education, Dte. of Education, Old Secretariat, Delhi.
4. Mrs. Shanta Kumari Sharma (alias Savita Sharma), Qr. No. 606, Laxmi Bai Nagar, New Delhi. .. Respondents

(By Advocate Shri Ajesh Luthra)

O R D E R (ORAL)

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

In this application, the applicant has prayed for the following ^{mainly} reliefs:-

"(b) issue necessary direction directing the respondents to correct the seniority of the petitioner and assign her the same from the date of her joining as PGT i.e. from 10.9.1979 and interpolate her name at serial No. 90 in the Seniority List of PGT (Economics) dated 10.3.1999 (Annexure 'A' and 'B');

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(c) issue directions/order to respondent No.1 and 2 to consider promoting the petitioner to the post of Vice-Principal from the date her juniors have been promoted with all consequential benefits.

She has also prayed for passing such other order as they deemed fit and proper in the circumstances of the case.

2. During the hearing, learned counsel for the applicant has submitted that the applicant is satisfied that the respondents have now revised the seniority list and assigned her seniority at Serial No.92A and have given her 'assumed' post of Vice Principal w.e.f. 19.3.1999. Learned counsel has submitted that the word 'assumed' is not tenable as the respondents have to promote the applicant as Vice-Principal from the date when her juniors were promoted. He, therefore, submits that the issue for consideration in the present application is with regard to the consequential benefits which are due to the applicant in the post of Vice Principal w.e.f. 19.3.1999. He has submitted that the word 'assumed' should be deleted as the respondents have themselves given the applicant promotion from the due date, when her juniors were promoted on 19.3.1999. He relies on the ^{judgement} of the Hon'ble Supreme Court in Kuldip Chand Vs. UOI and Ors (AIR 1996(SC 706)). He has also relied on the judgement of the Delhi High Court in K.Khan Vs. Municipal Corporation of Delhi and Ors. (53 (1994) D.L.Times 250 (DB)).

3. Learned counsel for the respondents has submitted that the tentative seniority list of Lecturers

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(PGT) (Female) was issued on 27.2.1998. The latest seniority list pertaining to this category was issued during the pendency of the present application on 22.11.2000. Learned counsel has submitted that the delay in revision of the seniority list in question cannot be attributed solely to the action/in-action of the respondents but also to the applicant. The applicant's first representation with regard to the seniority list was made on 18.3.99 and thereafter, the OA has been filed ~~for~~ more than one and a half years later i.e. on 9.10.2000. He has submitted that the applicant is, therefore, not entitled to any consequential or monetary benefits as claimed by the applicant in the OA. He has also submitted that in other respects, the seniority list has been revised and the applicant given notional/assumed seniority and promoted as Vice- Principal w.e.f. 19.3.1999. He has submitted that in Kuldip Chand's case (supra), the Supreme Court has not ordered that the applicant should get consequential benefits although they have directed his case for consideration. In the circumstances of the case, he has prayed that the OA may be dismissed.

5. We have carefully considered the pleadings and submissions made by the learned counsel for the parties. In this application, admittedly, the respondents have revised the seniority list of Lecturers(PGT (Female)) as prayed for by the applicant during the pendency of the OA by issuing the revised seniority list dated 22.11.2000.

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The applicant had made a representation on 18.3.1999 with regard to assigning her the correct seniority but she has filed the OA only on 9.10.2000. The respondents have also admittedly revised the seniority list and placed her name at Serial No.92A and given her notional promotion w.e.f. 19.3.1999 as Vice- Principal but actual monetary benefits have not been given to her retrospectively. We find merit in the submissions made by Shri P.S.Mahendru, learned counsel for the applicant that the applicant will be entitled to count her services as Vice- Principal w.e.f.19.3.1999 when she has been given notional promotion to that post. The judgement of the Hon'ble Supreme Court in Kishan Chand's case (supra) is relevant to the facts of this case and the respondents cannot reject the applicant's claim merely on the ground of delay, as they have themselves delayed the revision of the seniority list and subsequent promotion of the applicant. In the circumstances of the case, it cannot be stated that the applicant alone is responsible for delaying the matter as it is noticed that after she submitted the representation on 19.3.1999, she filed the OA after one and a half years and thereafter the seniority list was revised on 22.11.2000. However, in the circumstances of the case, the judgement of the Delhi High Court in K.Khan's case (supra) relied upon by the applicant will not assist her.

6. With regard to the claim of the applicant for monetary benefits, taking into account the facts and

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circumstances of the case, the OA is partly allowed. The respondents have issued the revised seniority list and granted her the consequential promotion as Vice-Principal w.e.f. 22.11.2000. We, therefore, consider it appropriate to direct the respondents to pay the applicant the difference of pay in the higher post as Vice-Principal with effect from the same date, that is 22.11.2000. Necessary action in this regard shall be taken by the respondents to pay the due amount to the applicant within three months from the date of receipt of a copy of this order. No order as to costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

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