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Central Administrative Tribunal, Principal Bench

Original Application No. 912 of 2000
Original Application No. 1942 of 2000

New Delhi, this the ^{20th} day of July, 2001

Hon'ble Mr. Govindan S. Tampi, Member(A)
Hon'ble Mr. Shanker Raju, Member(J)

OA No. 912/2000

1. Santosh Kumar S/o Shri Alam Chand Verma,
Post Graduate Teacher/Lecturer, r/o
383/7, E/I, East Azad Nagar,
Delhi-110051.
2. Suresh Chand Verma S/o Shri Deep Chand
Verma PGT/Lecturer r/o 9/5465, Gali No.2,
Old Seelam Pur, Gandhi Nagar,
Delhi-110031.
3. Harish Chand Vashishtha S/o Shri Suraj
Bhand Vashishtha Post-Graduate Teacher,
r/o 982, Rani Bagh, Delhi.
4. Chander Singh S/o Shri Buddhan Singh,
Trained Graduate Teacher, r/o 45-A/G-18,
Molar Bandh Extn, New Delhi-110044. -Applicants
(By Advocate Shri N.S.Verma with Shri
Arvind Sharma)

Versus

Government of N.C.T. of Delhi through
The Director of Education, Directorate of
Education, Old Secretariate, Delhi. - Respondent
(By Advocate Shri R.K.Singh proxy counsel
of Shri A.K.Chopra)

Original Application No. 1942 of 2000

1. Krishna Dutta Sharma S/o Shri K.S.Sharma,
Post Graduate Teacher/Lecturer, r/o 2/55,
Mandoli Extn, Delhi.
2. Munna Pandey S/o Shri Nath Pandey,
PGT/Lecturer r/o C-6/156, Laurance Road,
Delhi-35.
3. Gian Veer Singh, S/o Shri Mathura Singh,
Post-Graduate Teacher, r/o 81/A Jasola,
P.O. Badarpur, New Delhi-46.
4. Badru Zamman, S/o Shri Syed Sadruddin
Trained Graduate Teacher, r/o 81-A,
Jasola, New Delhi. -Applicants
(By Advocate Shri N.S.Verma with Shri
Arvind Sharma)

Versus

Government of N.C.T. of Delhi through
The Director of Education, Directorate of
Education, Old Secretariate, Delhi. - Respondent
(By Advocate Shri R.K.Singh proxy counsel
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(2) ORDER (ORAL)

By Mr. Shanker Raju, Member (J):

As the issue involved in both the OAs is common, we dispose of this OA by way of this common order.

2. The uncontroverted facts of the case are that the applicants who were appointed as Permanent Part Time PGTs and TGTs in Adult Education School have been on filing a Civil Writ Petition before the Apex Court by an order dated 30.4.91 in CWP-1350/90 have been regularised as PGTs and TGTs respectively in the year 1992. Subsequently, a seniority list of PGTs was circulated on 10.2.99 wherein the applicants' names do not figure. Despite making representations, no orders have been issued to redress their grievance. In these OAs the applicants have sought accord of seniority from the date of their initial appointment as Part Time Teacher and subsequent placement in the seniority list and also counting of the part time service as qualifying service for all purposes, including pensionary benefits. The applicants have also sought parity in pay scale with that of regular PGTs and TGTs from the initial appointment as Part-Time Teachers.

3. The applicants by resorting to the memorandum of appointment contended that therein they have to be given an opportunity for direct appointment in the regular scale to the posts of PGT and TGT along with others on completion of two years satisfactory service and they are liable to be posted any where in Delhi. As regards the other terms and conditions the same can be applicable by administrative rules and

orders of the department. It is also stated that admittedly they were permanent Part Time Teachers and by referring to the ours of work they had put in as stipulated under Delhi School Education Rules, it is contended that they had worked exactly identical to that of regularly appointed Teachers. It is also contended that the syllabus for teaching, duration ^{of} course and examination held were common to Part Time and Regular Teachers and also the result was common. In this background they have contended that the nomenclature made the difference but they are identically situated and at par with the regular Teacher and perform the same duties and subject to same condition and are equally qualified and conform to the same eligibility condition. As such they are entitled for the same scale as accorded to the regular Teacher in the respective category from the date when they had been appointed as permanent Part Time Teacher. Placing reliance on Rule 13 of the Pension Rules, 1972 it is contended that the qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed even if it is on officiating or temporary capacity. Further placing reliance on the Constitutional Bench ratio of the Apex Court in The Direct Recruit Class II Engineering Officers Association v. State of Maharashtra, 1992 (2) SCR 900 it is contended that the applicants have been recruited in accordance with the rules and this continuous officiation should be reckoned for the purpose of seniority in the grade and the service should be treated as regular and not as part time.

The learned counsel of the applicants has similarly placed reliance on State of U.P. v. Dr. R.K. Tandon, 1996 (6) Apex Decisions SC 197 and A.S. Chhabra v. State of M.P., 1996 (9) AD SC 279 to claim the seniority. Our attention has been further drawn to the decision of the Apex Court whereby in compliance the applicants have been regularised to contend that the issue regarding the seniority and equal pay for equal work has not been gone into therein.

4. On the other hand, the respondents strongly rebutting the contentions of the applicants have stated that the applicants are not regularly appointed Teachers and the conditions admissible to other regular Government servants were not accorded to them. The applicants in compliance of the directions of the Apex Court were freshly appointed through direct recruitment as such the seniority is to be reckoned from that date and not from the date when they were appointed as part time and as such their names were not rightly included in the seniority list. It is further contended that the applicants are not entitled for equal pay for equal work as they are not identically situated with that of the regularly appointed Teachers and in view of the settled principles of law the Tribunal would not assume the role of an expert committee on the basis of equal pay for equal work which has been left to be considered by the expert committee to be appointed by the Government and there cannot be any interference with the pay scale. It is lastly contended that the applicants are

at liberty to appear in the regular selection for the vacant post notified against direct recruitment quota if they conform to the eligibility criteria laid down under the relevant recruitment rules. Our attention has also been drawn to the seniority list dated 10.2.99 where at serial No.299 one Sh. Devender Kumar Ray is figuring and shown as direct recruit and his regularisation has been shown as 5.9.81 the learned counsel of the applicants stated that he was also a permanent part time Teacher but was accorded regularisation much before the applicants. To this the respondents have stated that the aforesaid plea has not been taken in the OA and as such they are not accorded an opportunity to rebut the same.

5. We have carefully considered the rival contentions of the parties and perused the material on record. The learned counsel of the applicants on our pointed query as to whether the applicants have sought redressal of their grievance as contended in the present OA with the respondents by filing a detailed representation taking all the contentions therein, the learned counsel of the applicants has stated that the same has not been done. As the Tribunal in accordance with the principles of law established by the Apex Court cannot interfere in the matter of parity of pay scale on equal pay for equal work and this task is entrusted to the expert body constituted under the Government, we have also asked the learned counsel for the respondents that if a representation is made by

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the applicants taking all the grievances the same shall be considered by the respondents, to this the learned counsel of the respondents has agreed^kto.

6. Having regard to the discussion made above, the ends of justice would be met if we direct the applicants to represent to the respondents their grievances relating to accord of seniority, equal pay for equal work as well as counting of service within a period of four weeks from the date of receipt of a copy of this order. We order accordingly. The respondents are directed to consider the representation of the applicants and dispose of the same by passing a detailed and speaking order within a period of three months from the date of receipt of a copy of the representation. The OA is disposed of in the above terms. No costs.

7. Let a copy of this order be placed in the case file of each case.

(Govindan S. Tambi)
Member (A)

S. Raju
(Shanker Raju)
Member (J)