

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.388/2000 with OA No.993/2000

New Delhi, this 15th day of March, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

1. Arunesh Awasthi
2. Chander Swaroop
3. Bram Singh
4. Gopal Dutt Sharma
All part-time Teachers
Govt. Adult Sr. Sec. School
Mori Gate/Lajpat Nagar, New Delhi ... Applicants

(By Shri S.K. Shukla, Advocate)

versus

Director of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi ... Respondent

(By Mrs. Avnish Ahlawat, Advocate)

ORDER(oral)

Shri Kuldip Singh

This OA has been filed by Shri Arunesh Awasthi and three others praying for the following reliefs:

(i) Direct the respondents for replacement of the fixed pay to the one justified by law/doctrine of equal pay for equal work;

(ii) Direct the respondents to pay the applicant more than the minimum wages as enforceable to the category of Govt. of NCT of Delhi.

2. Facts in brief are that the applicants are seeking indulgence of this Tribunal to grant them the replacement of the fixed pay of Rs.625 and Rs.500 per month fixed for PGTs etc. in the Adult Sr. Sec. Schools under the

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Respondent. The basic claim of the applicants is that they are working as part-time teachers on the fixed amount stated above which is less than that is being paid to part-time sweepers, waterman etc. who are being paid Rs.900/Rs.1350 per month. Applicants claim that they are fully qualified for being considered under doctrine of equal pay for equal work as has been held by the apex court in the case of Jaipal Vs. State of Haryana 1983(2) SLR 710. They have also stated that they have not been paid their salary from 1.5.1998 onwards.

3. Respondents have opposed the claim in their counter reply. They have submitted that the applicants have earlier filed OA 1879/94 which was disposed of by this Tribunal vide its order dated 31.1.97 with the direction to the respondents to hold a selection test for regularisation of the applicants within a period of three months from the date of receipt of a copy of that order and in the meantime applicants shall be continued on the same terms and conditions and that those who are not successful in the test, may be continued in service provided there are vacancies for them.

4. In compliance with the aforesaid directions of this Tribunal, respondents held special test for regularising the services of the applicants and also similarly placed persons. The results of the said test were declared but unfortunately all the applicants herein could not succeed in the test. Therefore their provisional appointments were cancelled and thereafter they have never worked as part-time teachers because they only wanted regular

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appointment. Applicants again filed OA 898/98 seeking regularisation which was dismissed by this Tribunal by an order dated 15.4.99 as no merit was found in the same.

5. Learned counsel for the respondents also pointed out that after the results were declared and the appointment of the applicants were cancelled, they did not work as part-time teachers from April, 1998 onwards and therefore there is no question of making any payment for the period thereafter. The counsel for the respondents also produced before us the attendance register to show that the applicants have not marked their attendance after April, 1998. Respondents also submitted that the duty hours of part-time teachers are only for 3 hours whereas for the regular teachers the working hours are 4.30 PM to 9.30 PM.

6. As regards the interim order dated 6.7.2000 directing the respondents to release fixed salaries due to the applicants within two weeks, if not already done and that respondents should also keep the relevant records for further consideration on the interim relief on the next of hearing, respondents submitted that the applicants have made false averments before this Tribunal. However the Vice-Principal of the concerned school was asked to make payment of salary who informed that since the applicants have not worked/attended the school, the question of making payment or marking attendance and giving them teaching assignment does not arise. Although the Principal has got prepared two cheques, but in view

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of the fact that applicants are not entitled for this amount, the interest of exchequer cannot be allowed to suffer. The said cheques are placed on record.

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7. We have considered the case of the applicants. As regards the relief regarding the replacement of the fixed pay to the one justified by law or doctrine of equal pay for equal work is concerned, we may mention that the applicants had been appointed earlier only as part time teachers, that too on a fixed term basis so the law of doctrine of equal pay for equal work is not applicable in their case as they were never appointed on regular basis in a time scale post nor there is any case of the applicants to direct the respondents to pay the applicants more than the minimum wages as enforceable to the category of NCT of Dlehi because the minimum wages provision apply to those employees who are performing regular 8 hours duty and the minimum wages have to be considered in accordance with that. The applicants herein were only part time teachers and their duty was to teach the adult students for an hour or so in a day so the concept of minimum wages as prescribed under the minimum wages act cannot be applied to them.

8. As regards their regularisation is concerned since the direction of the Tribunal was carried out by the respondents and the applicants failed to succeed in the special test held for them for their regulariation so they could not be regularised and as such we do not find any merit in the present OA.



9. As regards the Contempt Petition is concerned, since the applicants did not turn up for work after April, 1990 as they had not been marking their presence nor taking their classes and their services were also not regularised as they had failed so we find that the applicants have failed to make out any case for contempt of court against the respondents.

10. In view of the above, OA as well as CP both are dismissed. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

Q /gtv/