

Central Administrative Tribunal
Principal Bench

CP No. 14 of 2005
in
RA No. 167 of 2002
in
OA NO. 2083/2000

New Delhi, this the 3rd day of August, 2005

Hon'ble Mr. V.K. Majotra, Vice Chairman (A)
Hon'ble Mr. Shanker Raju, Member (J)

1. PREM PRAKASH GUPTA

S/O Late Shri Chinta Mani,
Aged about: 61 years,
Resident of: E-2/5/19,
Sector 15, Rohini,
Delhi - 110085

AND RETIRED AS:

Lecturer (acting Head of the Department (Electrical))
from Aryabhat Polytechnic,
New Delhi

2. DR. I.S. KAKAR

S/O Late Shri Prem Singh,
Aged about: 61 years,
Resident of: Flat No. 461,
Sector 9, Dwarka 1, D.D.A. Flats,
Dwarka,
NEW DELHI - 110045

AND RETIRED AS:

Lecturer (Selection Grade)
from Pusa Polytechnic,
Pusa
NEW DELHI

3. P.K. JAIN

S/O Late Shri Kailash Chand Jain,
Aged about: 63 years,
Resident of: C-56-B, Ground Floor, Inderpuri,
NEW DELHI - 110012

AND RETIRED AS:

Head of the Department
from Pusa Polytechnic,
Pusa
NEW DELHI

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4. **BHAGWAN DASS MENDIRATTA**

S/O Late Shri Heta Ram Mendiratta,
Aged about: 58 years,
Resident of: House No. 178,
Pocket B-7, Sector 4,
Rohini,
DELHI

AND EMPLOYED AS:

Principal,
G.B. Pant Polytechnic,
Okhla,
NEW DELHI

5. **SURESH CHAND JAIN**

S/O Late Shri Jagan Nath Jain,
Aged about: 50 years,
Resident of: A-24, C.C. Colony,
Opposite R.P. Bagh,
DELHI - 110007

AND EMPLOYED AS:

Lecturer (Senior Scale) in
Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

6. **LOKPAL SINGH NEGI**

S/O Late Shri B.S. Negi,
Aged about: 52 years,
Resident of: 84-R, C.P.W.D. Complex,
Vasant Vihar,
NEW DELHI - 110057

AND EMPLOYED AS:

Lecturer (Selection Grade)
In Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

7. **V. NARAYANAN**

S/O Late Shri T. Venkataraman,
Aged about: 59 years,
Resident of: 12, Sharda Apartments,
3, West Enclave,
Pitampura,
DELHI

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AND EMPLOYED AS:

Principal in
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

8. **BALDEV KRISHAN TANGRI**
S/O Shri Amritlal,
Aged about: 64 years,
Resident of: B-34, Fateh Nagar,
NEW DELHI - 110018

AND RETIRED AS:

Head of the Department in
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

9. **MRS. S. KUMAR**
W/O Shri Trilok Kumar,
Aged about: 63 years,
Resident of: Cottage No.12, Ground Floor,
West Patel Nagar,
NEW DELHI - 110008

AND RETIRED AS:

Head of the Department from
Meera Bai Polytechnic,
NEW DELHI - 110012

10. **MRS. SUMITA CHOPRA**
D/O Late Shri W.R. Sehgal,
Aged about: 63 years,
Resident of: B-72, Hill View Apartments,
Vasant Vihar,
NEW DELHI - 110057

AND RETIRED AS:

Lecturer (Selection Grade) from
Meera Bai Polytechnic,
NEW DELHI.

11. **V.K. SINHA GADDE**
S/O Late Shri L. Gadde,
Aged about: 72 years,

Resident of: D-139,
Freedom Fighters Enclave,
NEW DELHI - 110068

AND RETIRED AS:

Principal from
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

12. MRS. ARCHANA BAJAJ

W/O Shri Deepak Bajaj,
Aged about: 55 years,
Resident of: 9A/44, W.E.A.
Karol Bagh,
NEW DELHI - 110005

AND EMPLOYED AS:

Lecturer (Senior Scale) in
Meera Bai Polytechnic,
NEW DELHI - 110012

13. H.K. DASS

S/O Shri B.R. Verma,
Aged about: 69 years,
Resident of: D-1/87, Janakpuri,
NEW DELHI - 110058

AND RETIRED AS:

Lecturer from
Pusa Polytechnic,
Pusa,
NEW DELHI

14. D.D. JAIN

S/o Late Shri G.M. Jain,
Aged about: 74 years,
Resident of: A-72, Saraswati Vihar,
DELHI - 110034

AND RETIRED AS:

Lecturer from
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

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15. VED PRAKASH GUPTA
S/O Late Shri H.C. Gupta,
Aged about: 71 years,
Resident of: D-773,
Saraswati Vihar,
DELHI - 110034

AND RETIRED AS:

Lecturer from
Arya Bhat Polytechnic,
G.T. Karnal Road,
DELHI

16. C.R. DARGAN
S/O Late Shri Narain Dass Dargan,
Aged about: 66 years,
Resident of: 10-C, Pocket 3,
Mayur Vihar (Phase II),
DELHI - 110091

AND RETIRED AS:

Lecturer (Electrical Engineering),
From Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

17. INDRA PAL
S/o Shri Ram Lal,
Aged about: 65 years,
Resident of: House No. 627, Sector 37,
FARIDABAD

AND RETIRED AS:

Selection Grade Lecturer (Mechanical),
From Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

18. I.M. KAPOOR
S/O Late Shri B.D. Kapoor,
Aged about: 64 years,
Resident of: 7/1, South Patel Nagar,
NEW DELHI

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AND RETIRED AS:

Head of the Department (Electrical Engineering)
From Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

19. RAJESH KUMAR JAIN

S/O Shri B.S. Jain,
Aged about: 49 years,
Resident of: A-73, Brij Vihar,
GHAZIABAD (U.P.)

AND EMPLOYED AS:

Lecturer in
Ambedkar Polytechnic,
NEW DELHI.

20. J.P. GOEL

S/o Late Sjhri Banarsi Dasss,
Aged about: 62 years,
Resident of: B-35, Sawam Park,
Ashok Vihar,
DELHI - 110052

AND RETIRED AS:

Lecturer in Mechanical Engineering (Selection Grade)
From Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

21. SUBASH CHANDER

S/O Shri Shashi Lal Satharwal,
Aged about: 63 years,
Resident of: C-532, Saraswati Vihar,
DELHI - 110034

AND RETIRED AS:

Head (Mechanical Engineering from)
Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

22. OM PRAKASH

S/O Shri Bhavi Singh,
Aged about: 63 years,
Resident of: C-337, Shalimar Gardens Ext. 2

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Shahibabad,
GHAZIABAD (U.P)

AND RETIRED AS:

Lecturer (Civil Engineering) (Senior Scale) from
Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

23. R.K. CHADHA

S/O Shri D.N. Chadha,
Aged about: 55 years,
Resident of: 59, Divyajyoti Apartments,
Sector 19,
Rohihi,
DELHI

AND EMPLOYED AS:

Lecturer in English (Selection Grade) in
Aryabhat Polytechnic,
G.T. Karnal Road,
DELHI

24. S.K. MAJUMDAR

S/O Late Dr. C.L. Majumdar,
Aged about: 61 years,
Resident of: D-II/8, I.A.R.I. Campus,
Pusa,
NEW DELHI - 110012

AND RETIRED AS:

Senior Lecturer (Selection Grade) (Printing) from
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

25. LATE SHRI S.K.JAIN

S/O Shri Mithu Lal Jain,
Resident of: C-21, Hari Nagar Extension,
Badarpur,
NEW DELHI - 110044

26. V.K. VERMA

S/O Shri O.P. Verma,
Aged about: 50 years,
Resident of: 94, Maitri Apartments,
Mayur Vihar Phase I,

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DELHI - 110091
AND EMPLOYED AS:

Lecturer (Electrical Engineering) in
G.B. Pant Polytechnic,
Okhla,
NEW DELHI

27. RAJENDRA SAXENA

S/O Shri K.S. Saxena,
Aged about: 55 years,
Resident of: Type V Quarters,
Kasturba Polytechnic Campus,
Muni Maya Ram Marg,
Pitampura,
DELHI

AND EMPLOYED AS:

Principal in
Guru Nanak Dev Polytechnic,
Sector 15,
Rohini,
DELHI - 110085

28. MRS. RITA DARBAI

W/O Shri D.N. Darbari,
Aged about: 59 years,
Resident of: B-39, Pamposh Colony,
Greater Kailash-I,
NEW DELHI

AND EMPLOYED AS:

Principal in
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI

29. MRS. ARCHANA BHATNAGAR

W/O Shri R.N. Bhatnagar,
Aged about: 51 years,
Resident of: A-301, Shivalik,
NEW DELHI - 110017

AND EMPLOYED AS:

Senior Lecturer in
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI

30. MRS. NIRUPAMA GUPTA

W/O Dr. R.P. Gupta,
Aged about: 56 years,
Resident of: d-ii Quarters,
I.T.I. Pusa Campus,
NEW DELHI - 110012

AND EMPLOYED AS:

Principal in
Ambedkar Polytechnic,
Patparganj,
DELHI

31. P.L. KOHLI

S/O Late Shri Ram Bhaja Kohli,
Aged about: 62 years,
Resident of: 168, Sector 9,
Faridabad - 121 006 (Haryana)

AND RETIRED AS:

Principal,
Guru Nanak Dev Polytechnic,
Sector 15,
Rohini,
DELHI - 110085

32. LATE K.C. NARANG

S/O Shri Uttam Singh Narang,
Aged about: 68 years,
Resident of: H-187, Phase I,
Ashok Vihar,
DELHI - 110052

33. MRS. SHANTI GOEL

W/O Dr. G.D. Goel,
Aged about: 66 years,
Resident of: 561/62, Double Storey,
Ground Floor,
New Rajendra Nagar,
NEW DELHI - 110042

AND RETIRED AS:

Principal from
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI - 110065

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34. J.C. MOUDGIL

S/O Late Shri Sita Ram Moudgil,
Aged about: 65 years,
Resident of: F-13A, SFS Flats,
Saket,
NEW DELHI - 110017

AND RETIRED AS:

Head of the Department (Civil Engineering),
Pusa Polytechnic,
Pusa,
NEW DELHI - 110012

35. MS. MINAKSHI Y. SULE

D/O Late Shri Y.B. Sule,
Aged about: 68 years,
Resident of: B-178, Sheikh Sarai Phase I,
NEW DELHI - 110017

AND RETIRED AS:

Principal from
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI

36. S.L. GUPTA

S/O Shri Devi Sahai,
Aged about: 66 years,
Resident of: 212, Ashok Enclave-I,
FARIDABAD - 121 003

AND RETIRED AS:

Lecturer (Selection Grade) from
Pusa Polytechnic, Pusa,
NEW DELHI - 110012

37. MRS. SANTOSH PAL

W/O Late Shri O.P. Pal,
Aged about: 74 years
Resident of: 4/21, Vikram Vihar,
Lajpat Nagar-IV,
NEW DELHI

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AND RETIRED AS:

Head of the Department from
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI

38. MRS. KUMUD AWASTHI

W/O Shri Bharat Awasthi,
Aged about: 63 years,
Resident of: House No. 410, Sector 21,
Gurgaon – 122 060 (Haryana)

AND RETIRED AS:

Head of the Department from
Meerabai Polytechnic,
Maharani Bagh,
NEW DELHI

(By Shri B.B. Raval, Advocate)

(By Shri Narendra Rawal, Advocate)

VERSUS

1. Shri S. Reghunathan,
Chief Secretary,
Government of National Capital Territory of Delhi
Delhi Sachivalaya,
I.P. Estate,
NEW DELHI – 110002
2. Shri B.S. Baswan,
Secretary (Education),
Ministry of Human Resource Development,
Government of India,
Shastri Bhawan,
NEW DELHI – 110001
3. Shri R.S. Sethi,
Director (Technical Education),
Government of National Capital Territory of Delhi,
Near T.V. Tower,
Muni Maya Ram Marg,
Pitampura,
DELHI – 110034

... RESPONDENTS

Appearances: **Shri B.B. Raval, counsel for applicants**
Mrs. Avnish Ahlawat, counsel for R-1
Shri B.K. Barera, counsel for R-2

O R D E R

By Mr. Shanker Raju, Member (J):

OA No. 2083/2000 filed by the applicants was dismissed on 17.5.2002.

2. Applicants preferred RA No. 167/2002 which was allowed by the Tribunal by its order dated 1.4.2004 with the following directions:

“9. A decision in OA 674/2001 the benefit of recommendations of Dogra Committee has been accorded to the Workshop Superintendent in G.B. Pant Polytechnic w.e.f. 1.1.1986. The aforesaid judgment was delivered on 9.4.2002 and could not be produced even after exercise of due diligence by applicants. This, in our considered view, is discovery of new material which even after due diligence could not be produced by the review applicants. The aforesaid judgment goes to the root of the matter and establishes that Tribunal in similar circumstances pertaining to the Polytechnic staff has accorded benefits retrospectively from 1.1.1986. The aforesaid decision could not have been considered where the claim of applicants in the present RA is to be allowed for hostile discrimination by the respondents in implementing the AICT recommendations w.e.f. 1.1.1986. On the basis of the aforesaid conclusion we have no hesitation to allow the present RA.

10. We have also heard the parties in OA having regard to the decision of the Tribunal in OA-647/2001. RA & OA stands disposed with direction to the respondents to accord to applicants pay scale/career advancement scheme as recommended by Dogra Committee w.e.f. 1.1.1986. They would be paid the consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.”

3. MA No. 1874/2004 filed by the respondents seeking extension of time to comply with the directions of the Tribunal was rejected on 17.11.2004.

4. Applicants preferred the above Contempt Petition, on the ground that the respondents have not accorded them the benefit of Career Advancement Scheme and pay scale with consequential benefits w.e.f. 1.1.1986.

5. A reply filed by the respondents' counsel on 22.2.2005 reflects that the respondents have complied with the directions by an order dated 21.2.2005 where following decision has been taken:

"In compliance of the order of Hon'ble Central Administrative Tribunal dated 1/6/04 in the case of OA-2083/2000 RA 167/2002 P.P. Gupta and Others vs. Government of NCT of Delhi directing the respondents to accord the applicants pay scale/Career Advancement Scheme as recommended by Dogra Committee w.e.f. 1/1/1986 and payment of consequential benefits within a period of three months from the date of receipt of the copy of the order without costs. I am directed to convey the sanction of the Competent Authority for implementation of the Dogra Committee Recommendations/AICTE pay scale 1/1/1986 w.e.f. 1/1/1986 in r/o of Polytechnic teachers, Principals, HODs, Lecturers under GNCT of Delhi subject to the following conditions:

1. Funds are available.
2. Eligibility conditions, if any, for grant of revised pay scales are fulfilled.

Accordingly the following partial modifications are made in the date of implementation of AICTE pay scales of 1/1/1986 as per Dogra Committee Recommendations to on the above subject under reference:

- (i) the date of effect against letter no. 123/19/89/AD/50-70 dated 16.2.1996 in para 1 be date of effect be read as 1/1/1986 instead of 16.2.1996 and;
- (ii) the date of effect against letter No. 123/19/89/AD/472 dated 8/1/97 in para vi, be read as 1/1/86 instead of 1/11/96.

There are no changes or modifications in the other conditions indicated in both the above mentioned letters under reference.

This issues with the concurrence of Finance Department vide U.No. 1205 GA-1 Fin (G) dated 10/2/2005."

6. Another counter reply filed by Shri Barera, counsel for Respondent no. 2, seeks deletion from the array of the parties as being a proforma party.
7. Smt. Avnish Ahlawat also appeared in this case and filed her reply on behalf of respondents. According to her, benefits are to be accorded having regard to the recommendations of the Dogra Committee and in this view of this matter, it is stated that whereas the junior grade was accorded to the applicants, senior grade was withheld and is accorded to few of the applicants vide orders dated 1.8.2005 being eligible under the Committee's recommendations ibid and the others, who were not found fit as per the eligibility criteria, the decision has been complied with, therefore, no contempt is made out.
8. Learned counsel states that if an issue has become contentious, it is better to deal the same in a separate proceeding.
9. On the other hand, respondents' counsel states that whereas earlier by orders dated 16.2.1996 and 1.11.1996, the benefits have been accorded to the applicants on the same eligibility under the decision of the respondents, on re-examination, it cannot be countenanced that while referring to AICTE Notification dated 10.09.1993, it is stated that the following decision has been taken:

"(v) The revised scales of pay circulated by the AICTE vide Circulated dated 20.09.1989 are applicable

with effect from 1.1.1986 to all the existing teaching staff such as Principal, Heads of Department, Senior Lecturers and Lecturers who were appointed by the Competent authority. All the existing staff who are eligible for grant of revised scales/benefits of Career Advancement are exempted from the application of revised qualifications of AICTE Circular dated 20.09.1989 and such qualifications shall be applicable to new entrants recruited after 20.09.1989."

10. Having regard to the above, it is stated that though the Dogra Committee recommendations were issued, yet AICTE vide Circular dated 20.09.1989 has stressed on the modified qualification for grant of benefits and these qualifications have to run prospectively and shall be applicable only to new entrants recruited after 20.09.1989.

11. Learned counsel would contend that as the applicants are pre-entrant of 20.09.1989, a deemed relaxation is being given. As such, the only claim which has to be accorded to the applicants, which had already been bestowed upon them, the only difference which has emerged is the date of effect of 1.1.1986 instead of 1986.

12. We have carefully considered the rival contention of the parties and perused the material on record.

13. It is trite law that in contempt the earlier order passed by the Court cannot be reviewed as held in **K.G. Derasari vs. Union of India**, 2002 SCC (L&S) 756.

14. It is equally settled that in a contempt court is precluded from giving a direction to create substantive rights to grant substantive relief as held in **Jhareshwar Prasad Paul vs. Tarak Nath Ganguly**, 2000(5) SCC 352.

(X) "1996" - Corrected as per order in
 RA NO. 193/2005 in CPN 14/2005 in
 RA NO 167/02 in DA 2083/00. 09/6/06
 DR(G)
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15. As held by the Apex Court in **Suresh Chandra Poddar vs. Dhani Ram & Ors.**, 2002 SCC (L&S) 214 in contempt proceedings the power is to be exercised with due care and the Court is to concern with only compliance of its order in its true letter and spirit.

16. In so far as grant of junior grade is concerned, it is no more res integra as everybody has been accorded the same. As regards senior scale is concerned, though respondents plead that Dogra Committee has made certain stipulation as a pre-requisite eligibility for entitlement, yet we cannot lose sight of AICTE Circular dated 10.09.1993 where on implementation of AICTE Revised Scales under the Career Advancement Scheme of lecturers which had also given effect to the Dogra Committee's recommendations, sub clause (v) to clause 2 ibid rules circulated by AICTE on 20.09.1989 are with effect from 1.1.1986 but though the existing staff are eligible for grant of revised scales, the revised qualification would not apply and this not only includes the junior scale but the senior scale as well. Accordingly, we are of the considered view that while according implementation to the Dogra Committee's recommendations those who are entrants of pre 20.09.1989, the stand taken by the respondents to insist on the qualification cannot be countenanced as exemption is applicable to pre-entrants of 20.09.1989 in all grades including the senior Lectuers grade. Accordingly, the decision of the respondents to accord benefits to only those who qualify the eligibility under eligibility criteria and denial to others cannot be countenanced.

17. Furthermore, a different stand taken by the respondents in their two affidavits filed whereas vide letter dated 21.2.2005, though eligibility conditions, if any, are to be fulfilled, yet the effect of the order

of 16.2.1996 was preponed from 1.1.1986 and letter dated 8.1.1997 was preponed to 1.1.1986 is a clear indication to the fact that though the applicants were entitled to for the exemption clause, what has been altered as a compliance of the Tribunal and recommendation by Dogra Committee is the pre-ponement of the date of effect. Accordingly, applicants cannot be deprived of the benefits, which would be the compliance of our directions in true letter and spirits.

18. In the result, dropping the Contempt Petition and discharging the notices, we direct the respondents to accord benefits of senior grade to the applicants with all consequential benefits within two months from the date of receipt of a certified copy of this order. If the applicants still feel aggrieved, it would be open for them to take recourse in accordance with law.

S.Raju

(Shanker Raju)
Member (J)

V.K.Majotra

(V.K.Majotra)
Vice Chairman (A)

3.8.05-

/NA/