

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 2053/89

New Delhi, this 4th day of May, 1994

Shri N.V. Krishnan, Hon'ble VC(A)
Shri C.J. Roy, Hon'ble Member(J)

1. Shri R.K. Saini, s/o Shri Sohan Lal
2. " Devi Dayal, s/o Shri Tilu Ram
3. " A.D. Batra, s/o Shri R.C. Batra
4. " J.C. Rathi, s/o Shri Hukum Singh
5. " S.C. Rohilla, s/o Shri Ram Kala
6. " Bhagwan Das, s/o Shri Chacherro Singh
7. " S.K. Mitglani, s/o Shri Sham Das
8. " Bhagwan Shukla, s/o Shri S. Shukla

all working as Supervisors, Adult Education
Branch, Dir. of Education, Delhi

.. Applicants

By Shri K.N.R. Pillai, Advocate

Versus

Director of Education
Delhi Administration
Old Secretariat, Delhi

Shri Kali Charan
Addl. Director (Adult Education)
5/9, Underhill Road, Delhi

.. Respondents

By Shri M.M. Sudan, Advocate

O R D E R (oral)

(By Shri N.V. Krishnan, Hon'ble VC(A))

This case is listed at Sl.No.4 in today's
cause list with a note to the counsel that the first
10 cases are posted peremptorily for final hearing.
As none has appeared in this case though called twice,
we proceed to pass order after perusing the records.

2. The applicants are Supervisors in the Adult
Education Branch of the Directorate of Education
under the Delhi Administration. They are aggrieved
by the Annexure A-X order dated 7.9.89 stating that
they were admittedly Trained Graduate Teachers, who
were directed to work in the pay scale of the post
of Supervisors in the Adult Education Branch by
Annexure A-I, A-II and A-III orders dated 20.6.79,
15.5.79 and 17.10.80, respectively. By the impugned

order, they were reverted to their substantive posts of TGTs/PGTs and posted in their respective schools. Their prayer is to quash the Annexure A-X order and to direct the respondents to retain the applicants as Supervisors, Adult Education, in preference to their juniors selected under the Recruitment Rules, 1986, as long as the programme continues and posts of Supervisors are available.

3. We have perused the case. While persons like the applicants drawn from different schools were working as Supervisors, Recruitment Rules, 1983² were framed for filling up the posts of Project Officer and Supervisor, Adult Education. These recruitment rules made a provision for promotion to these posts in the Adult Education Programme only from the staff drawn from Social Education Branch.

4. The recruitment rules were challenged by the persons like the applicants working in the post of Supervisor in OA 53/86. That was decided on 19.10.88 and the following direction was given:

"16. In the facts and circumstances, we allow the petition and declare that that the Recruitment Rules for the post of Project Officers Grade II notified on 27.8.83 suffer from the vice of discrimination and are violative of Articles 14 and 16 of the Constitution in so far as they exclude Supervisors (Adult Education) as one of the feeder categories for promotion. We, therefore, set aside the Recruitment Rules only to the extent of such exclusion and direct that like Supervisors (SE),

Supervisors (Adult Education) with five years of experience in the grade should also be included as the first of the eligible categories for promotion. A review DPC should be held to consider Supervisors (Adult Education) with five years of service as on 1.2.85 when respondents 3 to 6 were promoted and if some of them are included in the panel within the number of vacancies of Project Officers available on that date they should be given notional promotion as Project Officers till they are retained in the Adult Education Wing. Action on the above lines with payment of arrears of higher pay and allowances, if any, should be completed within a period of three months from the date of communication of this order. There will be no order as to costs."

5. The respondents state in their reply that in pursuance of this judgement, a DPC was held and promotions were made on that basis. A copy of the order promoting one Shri B.S. Rana has been enclosed with the reply.

6. It is further stated that the posts of Supervisors in Adult Education have been abolished with effect from 24.11.88 and in view of the changed policy and therefore the applicants have to go back to their parent schools and they will have no ground to say that if they are transferred back to their schools, they will lose the chance of being considered for promotion in the Adult Education Programme. The respondents also state that as a result of the promulgation of 1983 Recruitment Rules, 24 teachers were rendered surplus and they were transferred to their parent cadre. Of them, 16 have already been promoted in their own cadre, only the eight applicants in

the present OA remain, who were to revert to their schools as the posts of Supervisors have been abolished.

7. In the rejoinder filed by the applicants, it is stated that the judgement at Annexure A-III has not been implemented and that a contempt of court petition for non-compliance of the judgement is pending and the court has issued notice to the respondents. No other particulars are given. It is also stated in the rejoinder in so far as the order abolishing the posts of Supervisor is concerned, the same has been challenged in OA 2540/89 in which a judgement has been rendered on 19.12.89 ^{that} directing the respondents should not give effect to the order abolishing the post of Supervisors till the appeal to be filed by the concerned persons to the Lt. Governor and the Union Ministry of Education is decided. The applicants have not filed either a copy of the judgement in OA 2540/89 or of the representation made to the Lt. Governor.

8. We have perused the records. In the light of the facts mentioned above, the situation is that the applicants were appointed to certain posts of Supervisors in the Adult Education Scheme, ~~admittedly~~, ^{though} the posts have been abolished. ^{The respondents} ~~are to be~~ say that all PGTs working in internal arrangement, ~~be~~ immediately relieved and transferred to the schools from where they were drawing their salaries, by the order now passed by the respondents (Annexure A-X).

9. We are unable to appreciate how this order can be assailed. For, if the posts stand abolished, there is no alternative except to repatriate the applicants to their parent schools. Therefore, the respondents cannot be faulted on passing the impugned order. It is a different matter that the order of ^{the abolition of} the posts of Supervisor is itself stated to be under challenge in OA.2540/89.

10. In the circumstances, we find no merit in this OA. It is dismissed. We however, make it clear that the respondents shall consider the question of applying to the applicants in this OA any favourable orders that may be passed by them in pursuance of the decision rendered in OA.2540/90 and on the representation stated to be pending before the Lt.Governor.

in file
(C.J. ROY)
MEMBER(J)

/tv9/

4.5.94
(N.V. KRISHNAN)
VICE CHAIRMAN(A)