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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1083/88

New Delhi, This the 10th Day of May 1994

Hon'ble Shri C. J. Roy, Member (J)

Hon'ble Shri P.T. Thiruvenugadom, Member (A)

1. Shri Jagdish Raj Gupta son of Shri Sanaar Chand, aged 54 years, resident of H.No. MC-32, Pitampura, Delhi working as Basic Teacher in Govt. Boys Middle School (Children Home for Boys I), Alipur, Delhi.
2. Smt. Radhe Tuteja wife of Shri Om Parkash Tuteja aged 40 years, resident of B-A/139-A, Janakpuri, Delhi working as Basic Teacher in Boy Care Centre, Tilak Vihar, New Delhi.
3. Shri Jai Bhagwan Sharma son of Shri Tek Chand Sharma, resident of V.P.O. Dichaon Kalan, New Delhi-42 working as PTI in Govt. Boys Middle School (Children Home for Boys I) Alipur Road, Delhi.
4. Smt. Urmil Ranga wife of Shri Vasdev Ranga resident of C-84, Paschim Vihar, New Delhi-63 working as Basic Teacher in Day Care Centre Khajoor Road, New Delhi.
5. Kumari Dropadi Gupta d/o Shri Kundan Lal resident of B-10, Kasturba Niketan, Lajpat Nagar, New Delhi working as Basic teacher in Boy Care Centre shahdara, Delhi-32.
6. Smt. Falora Kerkitta wife of Shri Raphail resident of 36B/LIG/DDA Flats, Face II/BIV, Ashok Vihar, Delhi working as Basic teacher in Village Cottage Home II, Kirti Nagar, New Delhi.
7. Smt. Ramdevi wife of Shri H. M. Kashyap, resident of NE-111, Vishnu Garden, Delhi working as Basic Teacher in Children Home for Girls Tihar, New Delhi.
8. Smt. Santosh Kapur wife of late Shri Dharampal Kapur, resident of Q.No. 122, Pocket 16, C2A, Janakpuri, Delhi working as Tailoring Teacher in Children Home for Girls Tihar, Delhi.
9. Smt. Shakuntla Devi wife of Shri Jai Pal Singh, resident of V. & P.O. Karala, Delhi-81 working as Basic Teacher in Children Home for Boys Alipur, Delhi.
10. Shri Prahlad Singh son of Shri Lekh Raj, resident of WZ.K-9A, Krishna Park Extn., Tilak Nagar, New Delhi-18 working as Band Master in Govt. Boys Middle School (Children Home for Boys I), Alipur, Delhi.

11. Smt. Adarsh Kumar wife of Shri R. Rai, resident of 120-3/LIG Flat phase-III, Ashok Vihar, working as Basic Teacher, Govt. Boys Middle school (Children Home for Boys I), Alipur, Delhi.
12. Smt. Bimla Sardana wife of Shri Sukhdev Sardana, resident of 17A/4/W. E.A., Karol Bagh, New Delhi-5 working as Domestic Science Teacher in Govt. Boys Middle School, (Children Home for Boys I), Alipur, Delhi.
13. Smt. Santosh Bala wife of Shri Abhimany Kumar, resident of 6/129, Lodhi Rajpost Mohala, Shahdara, Delhi working as Basic teacher, in Sanskar Ashram for Girls Model Town, Delhi.
14. Smt. Pratibha Gupta wife of Shri V.P. Ratta, resident of 380, Hakikat Nagar, Kingsway Camp, Delhi working as Basic teacher in Bal Sadan, Kingsway Camp, Delhi.
15. Smt. Rajini Puranik wife of Shri P.W. Puranik, resident of Q.No. 959, Delhi Admn. Flats, Gulabi Bagh, Delhi working as B.A.B.T. Teacher in Bal Sadan, Kingsway Camp, Delhi.
16. Smt. Savitri Khurana wife of Shri T.R. Khurana resident of 1/123, Rajinder Nagar, New Delhi working as Basic teacher in day care Centre, Gulabi Bagh, Delhi.
17. Smt. Raj Kumari wife of Shri Parkash Chand, resident of 2/6D, East Azad Nagar, Delhi working as Basic Teacher in Day Care Centre, Timarpur, Delhi.
18. Smt. Mamta Devi wife of Shri Brij Kishore, r/o 219, Rouse Avenue, New Delhi-2, working as Basic Teacher in Day Care Centre, Lady Harding, New Delhi.
19. Smt. Kamlesh Gera wife of Shri J.L. Gera, resident of A1/162A, Paschim Vihar, Delhi-63, working as Basic Teacher in Boys Care Central Ashok Vihar, New Delhi.
20. Smt. Kunti Gupta wife of Shri Jagdish Rai Gupta, resident of E-3/8, Krishna Nagar, Delhi-51 working as Basic Teacher in Govt. Boys Middle school (Children Home for Boys I), Alipur, Delhi-36.
21. Smt. Raja Devi wife of Shri Ram Kanwar, resident of H.No. 31, Chhanna Mal Park, New Delhi working as Basic Teacher in Govt. Boys Middle school (Children Home for Boys I), Alipur, Delhi.
22. Smt. Leela Malik wife of Shri S.P. Malik, resident of H. No. A1/98-A, Lawrence Road, Delhi working as Basic Teacher in Children Home for Boys II, Alipur.

23. Shri Risul Singh son of Shri Chuni Lal, aged 52 years, resident of V. & P.O., Puth Khurd, Delhi-39, working as Basic Teacher in Children Home for Boys (Beggars) Narela, Delhi-40.

24. Smt. Krishna Bhalla wife of late Shri S.P. Bhalla, resident of 2-I/31, Lajpat Nagar, New Delhi-110024.

By Shri N N Aggarwal, Advocate

.. APPLICANTS.

Versus

1. Union of India through Secretary, Ministry of Social Welfare, Shastri Bhawan, New Delhi.

2. Directorate of Social Welfare, Delhi Administration, Old I.T.I. Building, Curzon Road, New Delhi through its Director.

3. Delhi Administration through Chief Secretary, 5, Alipur Road, Delhi.

.. RESPONDENTS.

By Shri D S Mehendur, Advocate

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ORDER

Hon'ble Shri P.T. Thiruvenoaddam, Member(A)

1. The applicants in this OA are working as basic teachers in various institutions run by the Directorate of Social Welfare. Among the various reliefs claimed in the OA only the following reliefs were pressed at the time of final arguments:-

(a) Extend the same benefits which have been given to teachers in any of the schools run by the Directorate of Social Welfare namely the benefits flowing out of the instructions Vide letter No.4-16/83-VC dated 29-3-85 (Annexure P-2) and letter No.F.16(1)/83-DSW/Estt dated 20.9.88 (Annexure U).

2. The background to the claim has been explained as under:-

Initially there was only one Directorate of Education which dealt with Education as well as the field of social welfare. All the teachers used to be appointed under the Directorate of Education. However, with the expansion of activities of social welfare department a need was felt by the Delhi Administration to form a separate Directorate known as the Directorate of Social Welfare some time in 1959. Some of the employees of the Directorate of education were transferred to the new Directorate. One of the applicants in this OA is such a transferee. Under the common Directorate of Education the terms and conditions of the teachers who were working in the homes or institutions or schools were ^m ~~same~~ and no distinctions were made. However after the formation of Directorate of Social Welfare the Respondents have brought ~~the~~ distinction

in the service conditions of the teachers working in the schools and those working in the and Homes/Institutions, even within the same Directorate of Social Welfare, let alone discriminating between the teachers in the Directorate of Social Welfare and in the Directorate of Education.

3. A number of benefits have been extended to the teachers working in the schools under the Directorate of Education. The material benefits in question which was initially made available to the teachers in the Directorate of Education were subsequently extended to teachers of Schools under the Directorate of Social Welfare. It is to be noted that the Directorate of Social Welfare runs Schools/Homes/ Institutions which are designated as Govt Lady and Dumb, Noyce School for Deaf, Govt School for Blind Boys, Mental School for the mentally deficient children etc which come under the broad umbrella of Schools and Children Home for Boys, Children Home for Girls Day care centres, Village Cottage Home Sanskar Ashram for Girls, Bal Sadan etc which come under Homes and Institutions. The specific benefits which were granted to the schools under the Directorate of Education and to specific schools under the Directorate of Social Welfare include the benefits of enhancement in the age of retirement, grant of fixed medical allowance of Rs.15 per month under specified conditions, stagnation increments and the introduction of senior scales and selection scales for the category of teachers.

4. The main grounds advanced by the learned counsel for the applicants while seeking extension of the above benefits to the teachers employed in the various Homes/Institutions attached with the schools run by the Directorate of Education/Directorate of Social Welfare are as under:

(a) The teachers working in Homes/ institutions are transferable to the Schools run by the Directorate of Social Welfare. For substantiating this a number of transfer orders were produced.

The details are given below:

<u>S.No.</u>	<u>Name & Designation</u>	<u>Transferred From</u>
1.	Smt Vidyavathi Negi PTI	Children Home II Lajpat Nagar
2.	Gulab Singh, Asst Teacher	C.H.B. Kheyber Pass Delhi
3.	Smt Pushpha Rani Basic Teacher	SMRP (Girls) Awantika
4.	Smt Shkuntla Man DADT	A.C.H.O Madipur
5.	Smt Santosh Kumari PTI	C.H.B-II Alipur
6.	Smt. Sharda Handu, PTI	G.L.N.S. Delhi Gate

	<u>Transferred to</u>	<u>Order No</u>
1.	ELN School	F-13(28)/88-DSW/PSS Dated 19-10-90
2.	Govt School for Blind Boys, Timarpur	F.11(4)/80-DSW/Estt 61455 dt 4.11.1989
3.	HMRP Awantika	F.12.(2)87-DSW/Estt 37345 dt 4.7.88
4.	S.M.R.C Anand Vihar	F.18(2)/94-DSW/Estt 72685 dt 21-12-87
5.	G.I.N.S Delhi Gate	F.18(1)83-DSW/Estt.31376 dt 8.7.83
6.	C.H.B.-II Alipur	----do----

The above transfer orders would clearly indicate that there is free transferrability between Schools/Homes/ Institutions. Some of the schools to which the transfers have taken place happen to be the schools where the benefits now claimed have already been extended to.

b) The schools/Homes/institutions are on the same footing with regard to the imparting of academic education.

The essentiality certificate under rule 44 of Delhi Education Act 1973 is equally applicable even in the case of Homes/institutions where composite education scheme is followed. To this effect Directorate of Education issued a letter No.F.4(84/E.C./A-IV/DN/91/18181 dated 14.8.91 (Annexure M) conveying the approval of Directorate of Education to the extension of essentiality certificate for one of the homes namely Children Home for Boys Alipur.

(c) School Leaving Certificates are issued to the Children who leave the Homes/Institutions after being imparted with necessary academic education. To this effect Annexure F letter dated 5.7.89 which is a letter from Supdt, Children home for boys, Dte of Social Welfare addressed to DD Dte of Social Welfare has been referred to.

(d) Recruitment qualifications for the post of teachers irrespective of whether they work in homes/institutions or schools are same. Only for a short period the qualifications with reference to schools had been enhanced but they were again brought on par in 1993.

(e) Reliance was placed on the orders passed by this Tribunal in OA 434/86 rendered on 8.10.86 wherein the following decision has been recorded:-

"We have already observed that the teachers from the three institutions mentioned in para 1 above have been given the benefit of the retirement at the age of 60 years as also the benefit of monthly Medical Allowance and other consequential benefits. The question arises as to whether those orders can equally apply to the applicant who is working in a school known as Observation Home. It was submitted that the teachers in the Observation Home and in the above mentioned three institutions were inter se transferable from one institution to another. Not only that, a combined seniority list of Drawing Teachers of these Schools is maintained. The recruitment rules are also the same."

The net result of the above situation is that a Drawing Teacher who is fortunate to be attached to any of the three institutions mentioned in paragraph 3 above would be entitled to the benefit while the Drawing Teacher attached to the Observation Home will be excluded from that benefit. In our opinion, such an anomaly should not be permitted. It may as well be possible to imagine that the present application would have the advantage of retirement at the age of 60 years if she had been transferred to any of those schools prior to her attaining the age of 58 years. It is rightly submitted on behalf of the applicant that the existence or otherwise of the benefit of such retirement cannot be made dependent upon such fortuitous circumstances. We, therefore, hold that the applicant was entitled to continue in service upto the age of 60 years. Similarly, she would be entitled to have monthly Medical Allowance of Rs.15/- and to have the stagnation increment which the other teachers are getting.

The application is thus allowed. "

5. In the reply filed by the respondents the stand taken is that the applicants are craft instructors and are not teachers. It has also been averred that the teachers working in the various Homes/Institutions under the Directorate of Social Welfare are not transferable to the schools even under the same Directorate. It has been added that the duties and responsibilities of the teachers working in the various Homes and Institutions of the Directorate of Social Welfare are not similar with teachers working in the schools. The order passed in DA 434/86 is applicable only to the applicants in that case and cannot be extended to all others. It has also been pointed out that the award of selection grades as well as other benefits to the teaching staff including the applicants is under consideration.

6. We are not convinced by the stand taken by the respondents that teachers working in the various Homes/institutions are not transferable to schools

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even within the same Directorate. A number of instances stated supra by the applicants as well as the earlier stand taken by the respondents in O.A.434/86 leaves us with no doubt that such transfers have been taking place frequently. As regards the other grounds advanced by the applicants in the O.A. as well as in the Additional Affidavit which was filed with the approval of the Tribunal there is no convincing denial. We are in agreement with the arguments advanced by this Tribunal while disposing the earlier O.A.434/86 and we do not see the reason to justify different treatments between the home/institutions and those in the schools under the same Directorate. Accordingly, we direct the extension of benefits to applicants in this O.A., as per details given below:-

- 1) The benefit of senior scale and selection scale conferred to the specified schools vide Delhi Administration's letter No.F.16(1)83-DSW/Estt dated 20-9-88 based on the letter of 12-8-87 issued by the Ministry of Human Resource Development should be extended suitably in favour of the applicants.
- 2) The benefit of stagnation increment conveyed vide Ministry of Social Welfare letter No.4-16/83-VG dated 29-3-85 should be suitably extended to the applicants.
- 3) The benefit of fixed medical allowance of Rs.15/- per month in view of the existing scheme of reimbursement on medical expenses subject to the option stated therein should be extended to the applicants prospectively from the date of receipt of this order.

4) Enhancement of the date of retirement to 60 years to the applicants who are still in service as on the date of this order. This should be in the interest of equity since the benefits of the orders of 29-3-85 were claimed in this O.A. filed only in 1988 and even this O.A. was dismissed on 28-9-93 since the applicants did not seem to be interested in prosecuting the matter and had to be later revived by filing M.A.No.3629/93.

5) The respondents are allowed four months time for implementation of the above benefits to the applicants from the date of receipt of this order.

No costs.

P.T.Thiru
(of 94)
(P.T.THIRUVENGADAM)
Member (A)

10/6/94
(C.G.ROY)
Member (J)

'LCP'