



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**TA/100/10/2016
MA/100/2194/2020
MA/100/1269/2017**

This the 2nd Day of February, 2021

Through Video Conferencing

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

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7. Mrs. Madhu Gaur
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9. Mrs. Tushirkanta
W/o. Mr. G. S. Paul
R/o. C-86, S-3, Dev Apartment,
Shalimar Garden Extension-II,
Sahibabad (U.P.).
10. Mrs. Vishnu
W/o. Mr. Dhani Ram
R/o. C-48, G-2, Shalimar Garden Extension,
Sahibabad, Ghaziabad (U.P.).
11. Mr. Dhani Ram
S/o. Mr. Kula Nand
R/o. C-48, G-2, Shalimar Garden Extension,
Sahibabad, Ghaziabad (U.P.).Applicants

(By Advocate : Ms. Rashmi Chopra)

Versus

1. Govt. of NCT of Delhi
Through its Secretary
Department of Education
Civil Line, Old Secretariat,
Delhi.
2. The Directorate of Education
Through its Director
Govt. of NCT of Delhi
Civil Line, Old Secretariat,
Delhi.
3. The Deputy Director of Education



Act-I,
 Directorate of Education
 Govt. of NCT of Delhi
 Civil Line, Old Secretariat, Delhi.

4. The Deputy Director of Education
 South West-A,
 Directorate of Education
 Govt. of NCT of Delhi
 C-4, Vasant Vihar, New Delhi.
5. The Principal
 Govt. Co-Ed, Sarvodaya Vidhyalaya,
 Sr. Secondary School,
 Sector-13, R. K. Puram,
 New Delhi – 110 066. ...Respondents

(By Advocate : Ms. Esha Mazumdar)

O R D E R (ORAL)

Justice L. Narasimha Reddy :

The applicants 1 to 9 were appointed as Teachers and applicants 10 & 11 as non teaching employees in the Central Academy Schools established by Children Education Trust of India. The School was taken over by the Government of Delhi, in terms of Section 20 of Delhi School Education Act of 1996 in pursuance of certain directions issued by the Hon'ble Delhi High Court in a series of writ petitions. The manner in which the employees of the Schools were taken over, was left to be decided by the Government.

2. Initially, the Government passed an order on 05.05.2015 directing that the employees of the taken over schools shall be treated as those, on contractual basis. Not satisfied with that,



the affected parties approached the Hon'ble High Court. On the basis of the direction issued therein, the respondents passed a detailed order dated 14.01.2016, directing that the applicants herein shall be treated as Special Appointees. Challenging the same, the applicants filed CWP No.6099/2016. The writ petition has since been transferred to this Tribunal and renumbered as TA No.10/2016.

3. The applicants contend that once the school was taken over permanently, they acquired the status of government teachers and in that view of the matter, they were entitled to be extended the benefits which are otherwise available to the government teachers. They seek modification of the impugned order providing for extension of the benefit of ACP/MACP, promotion etc.

4. The respondents filed a detailed reply opposing the OA. It is stated that under the Act, the takeover of the Institution can be only for a period of five years, and in view of the specific directions issued by the Hon'ble High Court, the Institution was taken over on permanent basis. According to them, the applicants constitute a special category, by themselves, and the impugned order was passed protecting their service conditions, their pay structure and ensuring that they shall be paid salary at par with government employees, till their date of retirement. It is also stated that the applicants cannot be



treated at par with the government teachers in terms of other conditions, having regard to the difference in the method of appointment etc.

5. We heard Ms. Rashmi Chopra, learned counsel for the applicants and Ms. Esha Mazumdar, learned counsel for the respondents, in detail.

6. The history of the litigation of taking over of a private institution and matter connected thereto dates back to more than two decades. Extensive litigation ensued in this behalf. The Act provides for taking over of Private Educational Institutions for a period, not exceeding five years, in case any deficiencies are noticed in the management thereof. Faced such situation, the Hon'ble High Court carved out a special legal regime and directed permanent take over. The manner in which the employees of the Institution must be treated, was left to be decided by the Government and accordingly an order was passed on 05.05.2015. The government sought to treat the employees as those, on contractual basis. Since it brought about a different legal set up altogether, the applicants approached the Hon'ble High Court. In compliance to the directions issued therein, the impugned order was passed. The ultimate conclusion arrived at by the respondents reads as under:-



“NOW THEREFORE, in the light of above observations, I undersigned, direct that employees who fulfill the RRS shall be engaged purely on contractual basis till their superannuation or resignation/termination of service on the aforesaid terms and conditions.”

7. It may appear somewhat abnormal that the applicants herein are treated as special appointees. However, the facts and circumstances do not permit of any other approach. Reason is that they cannot be treated as government employees inasmuch as they were not inducted in accordance with the prescribed procedure. On the other hand, they cannot be treated as employees of the private schools, since the institutions were already taken over. Faced with this typical situation, the respondents have brought into existence, a class, viz. ‘special appointees’.

8. The applicants could have certainly grievance, in case their emoluments are not protected. The order makes it amply clear that they will be entitled to be paid the salary, at par with the government employees, till the date of their superannuation. The occasion to extend the benefits such as ACP/MACP and promotion would arise if only such a facility existed in the institution which was taken over. In the absence of that, the mere fact that the school was taken over, cannot be treated as a fortuitous circumstance for the applicant, to claim the benefits which otherwise did not exist. Even now, the applicants can point out and establish the



existence of any benefits in the institution that was taken over and are not extended to them, by the Government. In such a case the respondents, who have taken over the school would be under obligation to continue the same facility as long as they are found to be within the framework of law.

9. We, therefore, dispose of the TA;

- (a) declining to interfere with the impugned order
- (b) leaving it open to the applicants to make a representation stating, whether the facilities such as ACP/MACP and promotion, were available in the administration of the Institution, before it was taken over;
- (c) In case the applicants are able to satisfy the respondents as to the existence of such facilities, and are found to be within the legal framework the respondents shall consider the feasibility of continuing the same.

10. Pending MAs also stand disposed of. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/pj/jyoti/mbt/