

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1827/2015



Through video conferencing

Tuesday, this the 24th day of September, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Ms. Lakshmi,
D/o Sh. Pyare Lal
W/o Sh. Kishan Kumar,
Age: 35 years,
M.C. Nigam Pratibha Vidyalaya,
Jahangir Puri, D Block, I shift,
Delhi-110033.
Working as Assistant Teacher

2. Ms. Lajwanti
D/o Sh. Mohan Lal,
W/o Sh. Mahesh Kumar Verma
Age: 35 years,
M.C. Primary School,
J-1st Jahangir Puri,
Delhi-110033.
Working as Assistant Teacher

3. Ms. Kavita Rani
D/o Sh. Jai Parkash
W/o Sh. Devi Das
Age: 36 years,
M.C. Nigam Pratibha Vidyalaya,
Awasiya Parisar, MCD flats,
New Usmanpur, Delhi-110053.
Working as Assistant Teacher

.... Applicants

(By Advocate: Ms. Anubha Bhardwaj)

Versus

1. North Delhi Municipal Corporation
Through its Commissioner North,
Civic Center, New Delhi.

2. South Delhi Municipal Corporation
Through its Commissioner,
Civic Center, New Delhi.
3. East Delhi Municipal Corporation
Through its Commissioner,
Udyog Bhawan,
Patpar Ganj Industrial Area,
Delhi.

.... Respondents

(By Advocate: Sh. R.K. Jain and Ms. Anupama Bansal)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy, Chairman :-

A notification was issued in May, 2002 for appointment as Assistant Teachers, with Post Code No. 013-C for the Municipal Corporations in Delhi. The applicants herein are some of the candidates who took part in that. After conducting the written test, the respondents carried out the process of selection. While quite large number of unreserved candidates were issued orders of appointment, the selection of some of the categories of reserved candidates was delayed due to the uncertainty that prevailed about the validity of their caste certificates. Earlier to this batch of selection, same problem arose and the matter was dealt with by the Hon'ble High Court of Delhi in CWP No. 5061/2001. In their judgment dated 31.05.2002, their Lordships laid down various parameters for recognition of the social



status of the candidates. It was also directed that in case of such of the successful candidates, who are issued orders of appointments, the consequential benefits shall be extended and that their seniority shall also be maintained. The same situation obtained in the case of the applicants also. The applicants herein were issued orders of appointment in the year 2004 and 2006.

2. However, just before the date of orders of appointment of the applicants, the scheme of pension in the Municipal Corporation was modified. It was replaced by New Pension Scheme(NPS). The applicants contend that once they were selected and appointed in pursuance of same Advertisement, there cannot be any justification to deny them, the benefit of Old Pension Scheme. Placing reliance upon judgment of the Hon'ble High Court in CWP No.5061/2001 and other subsequent judgments, they claim the relief at par with batch mates who are issued orders of appointment earlier.

3. The respondents filed counter affidavit. The basic facts are not disputed. An objection is raised as to limitation. It is also stated that the applicants would be

governed by the service conditions were in force as on the date of the order of appointment.

4. We heard Ms. Anubha Bhardwaj, learned counsel for the applicant and Ms. Anupama Bansal and Sh. R.K. Jain, learned counsel for the respondents.

5. The issue involved in this OA was dealt with by the Hon'ble High Court as well as this Tribunal in several cases. The undisputed facts are that the applicants were the candidates for the Advertisement issued for the post of Assistant Teachers in the year 2002. Though they were selected, their appointment was delayed on account of uncertainty about their social status or validity of the caste certificates. The candidates as regards whom such doubt did not exist were issued orders of appointment in the year 2002 itself. After some amount of litigation and verification, the applicants were appointed as Assistant Teachers in the year 2004 and 2006.

6. As observed earlier, the Old Pension Scheme was replaced by a New Pension Scheme w.e.f. 01.01.2004.

Since the orders of appointment of the applicants were issued subsequent to that date, they are in the ordinary course, governed by the NPS. However, once it is not in dispute that the persons who too were selected along with the applicants were appointed earlier to 01.01.2004 and are governed by the Old Pension Scheme, it is but natural that the applicants are also extended the same benefit. The delay in appointment of the applicants is not attributable to them.

7. This very issue was dealt with by the Hon'ble High Court of Delhi in W.P.(C) No. 5061/2001 and it was held that candidates whose appointment is delayed shall be extended the consequential benefits including seniority, on par with other candidates of the same batch. Once the batch mates of the applicants were issued orders of appointment earlier to 01.01.2004, they too must be governed by the same legal regime and service conditions. They must also be assigned the seniority as per their ranking in the merit list. The Hon'ble High Court denied the back wages or benefit of arrears in such cases.

8. We, therefore, partly allow the OA directing that the applicants shall be governed by the service conditions which apply to the batch mates selected in pursuance of the Advertisement issued in May, 2002 and be governed by old pension scheme. They shall also be entitled for the benefit of seniority. However, they would not be entitled for any arrears of pay.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

/sd/rk/ns/sd/RKS

(Justice L. Narasimha Reddy)
Chairman

