

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 062/101/2020
(Diary No. 62/145/2020)
M.A. Nos. 062/034/2020, 062/035/2020 and 062/036/2020

Friday, this the 26th day of June, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Bhagwan Sahai, Member (A)

1. Bharat Bhushan Bhat, S/o Bansilal Bhat, R/o Kulgam, Kashmir J&K, Aged 49 years.
2. Mohammad Abbas Bhat, S/o Ghulam Mohammad Bhat, R/o Poniwah, Anantnag, Kashmir J&K, Aged 53 years.
3. Tamkeen Kausar, W/o menu Aarif, R/o S.K. Colony, Anchidora Anantnag, Kashmir, J&K, Aged 48 years.

.....Applicants

(Mr. Shuja Ul Haq, Advocate)

Versus

1. Union Territory of J&K through Commissioner cum Secretary to Govt. Education Department, Civil Secretariat, Jammu/Srinagar.
2. Director School Education Kashmir, Srinagar.

.....Respondents

(Mr. Sudesh Magotra, Dy. Advocate General)

O R D E R [O R A L]

Justice L. Narasimha Reddy, Chairman: -

The applicants were appointed as Teachers in Chemistry in the Department of Education at different points of time. It is stated that such of the Teachers, who have acquired Post Graduation qualification, are considered for appointment as Incharge Lecturers in Chemistry. It is also stated that through the applicants were not shown in the seniority list prepared in years 2012 and 2018,

ultimately their grievance was redressed in the year 2019 and they were assigned appropriate places. On 16.10.2019, the respondents appointed 129 Teachers as Lecturers on ad hoc basis. The applicants content that several juniors to them were included in the list, whereas they were not considered. In this background, they seek relief in the form of a direction to the respondents to consider their case for appointment as Incharge Lecturers in Chemistry against the existing vacancies.

2. We heard Mr. Shuja Ul Haq, learned counsel appearing for the applicants and Mr. Sudesh Magotra, Deputy Advocate General appearing for the respondents at the stage of admission through Video Conferencing.

3. The applicants claim to be the Chemistry Teachers with Post Graduation qualification. Though they said to have been denied proper places in the seniority, ultimately their grievance stood redressed in the year 2019.

4. On 16.10.2019, the School Education Department, Government of Jammu & Kashmir, appointed 129 Teachers in the discipline of Chemistry as Incharge Lecturers in their own pay and grade. This was subject to clearance by the Departmental Promotion Committee (DPC).

5. The applicants contend that several Teachers, who are junior to them, were appointed as Incharge Lecturers, whereas they were denied the benefit.

6. It is fairly well settled that even while making an ad hoc or incharge appointments to a higher post, the concerned authority shall be under an obligation to take into account the seniority in the lower category. It is only when the regular promotions are made, that the DPC can select the candidates and in the process the senior can also be overlooked. Once, there is no selection process involved, the seniority deserves to be respected. We are informed that in addition to the 129 posts of Lecturers, there are many other vacancies. The case of the applicants can be considered for similar arrangement in case they do not suffer from any impediment or disqualification.

7. We, therefore, dispose of the OA directing that it shall be open to the applicants to make a representation to the respondents ventilating their grievance with a period of four weeks from today, and on receipt of the same, the competent authority shall pass appropriate orders within a period of six weeks thereafter either extending the benefit of promotion of the applicants as Incharge Lecturers as was done through order dated 16.10.2019 or informing the reasons as to why such benefit cannot be extended to the applicants. If the applicants are not extended the benefit of incharge promotion, they shall be entitled to pursue their remedies in accordance with law.

8. All the MAs stand disposed of. No order as to costs.

(Dr. Bhagwan Sahai)
Member (A)

(Justice L. Narsimha Reddy)
Chairman

DSN