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orders dictated and case
disposed of

NO

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. O.A.1494/87. DATE OF DECISION: 10.2.1993

The Joint Anusuchit Jati/
Jan Jati Principals and
Vice-Principals and Teachers
Welfare Association through its
General Secretary & Ors. ... Petitioners.

Versus

Union of India & Ors. ... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioners.

... Shri D.N. Puri,
for Shri E.X. Joseph
Counsel.

For the Respondents.

... None.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

This petition is by the Joint Anusuchit Jati/Jan Jati Principals & Vice-Principals and Teachers Welfare Association through its General Secretary and five others. The petitioners have prayed for the following reliefs:

- (1) for a declaration that the Scheduled Tribe(ST)/ Scheduled Caste(SC) teachers are entitled to the grant of selection grade w.e.f. 5.9.1971 on the basis of the percentage fixed to teachers of SC/ST communities;
- (2) for a declaration to Respondents 2 to 5 that the selection grade granted to the eligible teachers will be w.e.f. 5.9.1971 and other appropriate dates as and when selection grade was admissible as per the orders of the Govt. of India;

(3) for a direction to pay the arrears of pay and allowances to the SC/ST teachers w.e.f.

5.9.1971 and other later dates with due interest and for consequential and incidental reliefs.

2. On a perusal of the pleadings and the orders produced by the parties, it is clear that the associations of the members of SC/ST have been agitating from time to time for grant of special treatment to them in the matter of reserving posts in the promotional cadre. The orders were passed for granting reservation for the SC candidates at 15% and for ST candidates at 7½% in the promotional cadres where the posts are required to be filled up on the basis of seniority subject to rejection of the unfit. In due course, there was agitation by the members of the SC/ST that the same privilege should be extended to them for reservation in the selection grade posts as well. This was also conceded and appropriate orders were made. This was, however, subject to the fulfilment of the other conditions, namely, completion of the requisite period of 5 years of service to become eligible and completion of the probation period. There was further agitation by the members of the SC/ST to relax these conditions as well and the Govt. of India appears to have acceded to their request by directing grant of selection grade reservation in favour of the SC/ST candidates on completion of the probationary period. The scheme of the orders makes it clear that they do not bear on enforcement of the pre-existing rights of the members of the SC/ST. The orders have been made from time to time as aforesaid, for extending better and better benefits to the members of the SC/ST on the lines indicated earlier. Hence,

it is obvious that the rights conferred on the members of the SC/ST in the matter of grant of selection grade stand circumscribed by the orders which sanctioned such privileges. Hence, the members of the SC/ST can claim benefits only to the extent and subject to the limitation prescribed by the orders granting such privileges. In the light of this situation, it is not possible to accede to the prayer of the petitioner that everyone should be granted selection grade from 5.9.1971 or any other date without fulfilment of the prescribed conditions. Among other conditions is availability of vacancies in the selection grade. These are all matters to be examined by the authorities as and when the occasion arises. If in a given case any particular member of the staff belonging to the SC/ST is illegally denied the rights and privileges of selection grade, he can seek relief from the appropriate authorities and if relief is not granted by them, he can approach the Tribunal for redressal of his grievance. Hence relief of general nature sought by the association cannot, therefore, be considered. The petitioners have not pleaded that any particular teacher became eligible on a particular date for selection grade and though there was a vacancy to which he could have been promoted he has been denied his right in this behalf. If the petitioners had any grievance in this behalf, they could have certainly prayed for appropriate relief by pleading the relevant facts. That has not been done in this case. Hence, the petitioners are not entitled to relief as prayed for in this case.

3. So far as the compliance of the orders regarding grant of selection grade in general is concerned, the stand taken in

the reply filed by the respondents is that the orders of the Government of India passed in this behalf from time to time are being given effect to. We shall advert to paragraphs 6(ix) to 6(xvi) of the reply:

"6(ix) Paragraph 6(ix) of the application is wrong and misleading. It is submitted that the clarification was given by the Deptt. of Personnel O.M. No.10/4/73, E(Sct) dated 20th July, 1974 that too on receipt of a reference from the Ministry that the reservation/concession for SC/ST in promotion would apply to appointments made to the selection grade in various services/posts. On receipt of this clarification through Ministry, the applications of reservation in selection grade posts had been made by the Deptt. and selection grade was given to all eligible SC/ST teachers w.e.f. 1.1.1973.

6(x) In reply to paragraph 6(x) of the application it is submitted that selection grade to SC/ST teachers can be next given only when such SC/ST teachers complete probation and are eligible for higher grade. A person becomes eligible for higher post only after putting for 5 yrs. service in the lower grade however, in order to give maximum benefit to SC/ST teacher as per police of Delhi Administration, relaxation was sought from the L.G. to give maximum benefit to SC/ST teachers as on completion of probation period in the year 1985-86.

6(xi) Paragraph 6(xi) of the application is wrong and misleading. It is submitted that as on completion of probation period in 1985/86 the selection grade was awarded as per seniority list of different categories of teachers in accordance with instructions of the GOI without discriminating SC/ST teachers because reservation orders were not available at the time of award of selection grade w.e.f. 5.9.71. On the persistent demand of the Association, the Govt. of India has agreed to create benefit to the eligible SC/ST teachers according to reservation of SC/ST with clear directions that these posts will be taken into account while creating selection grade posts w.e.f. 1.1.1973.

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6(xii) Paragraph 6(xii) of the application is wrong and denied. It is denied that SC/ST teachers were not granted their full quota. It is submitted that though the selection grade was to be awarded from the date of clarification is received from the Govt. of India but the Administration has awarded the selection grade w.e.f. 1.1.73 though the instructions were received in 1974. It may be submitted on the basis of repeated demands of SC/ST teachers and their association. Reference was made to the Govt. of India to give them at least a notional benefit w.e.f. 5.9.71 but the same was rejected by the Govt. of India. Annexure R-1 and Annexure R-2 are the copies of letters received from the Government of India in this regard.

6(xiii) to 6(vi). In reply to paragraph 6(xiii) to paragraph 6(xvi) of the application it is submitted that it may be again emphasised that the selection grade to SC/ST was to be given from the date the clarification from Government of India is received and not from 5.9.71. It is submitted that special cadre is an entirely different cadre governed by its own conditions. It is stated as already submitted that SC/ST teachers and their association have been representing their cases in the meeting with High Official of Administration and on their repeated representations matter was taken by the Government of India".

4. It is clear from these averments that the respondents have made honest efforts to comply with the orders issued from time to time for the members of the SC/ST in the matter of grant of selection grade.

5. For the reasons stated above, this petition fails and is dismissed. No costs.

M. Adige
(S.R. ADIGE)
MEMBER (A)

V. S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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