

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

OA 905 of 1987

Decided on 8-9-1989

Jarnail Singh and another Appellants

Versus

Delhi Administration ... Respondents.

For the Appellants Mr. J.M.Khanna, Advocate.

For the respondents Mr. M.M.Sudan, Advocate.

B.S. SEKHON:

The factual matrix leading to the filing of the instant Application lies within a short compass. Appellants, who were serving as Post Graduate Teachers in the Higher Secondary School of the Directorate of Technical Education under the Delhi Administration, when they were declared surplus in 1974. On a Writ Petition, being Writ Petition No.1486 of 1974 filed by Applicant No.1, the Delhi High Court directed that Applicant No.1 be adjusted against the post in question. The aforesaid Writ Petition was transferred to the Tribunal by virtue of the operation of Section 29(1) of the Administrative Tribunals Act, 1985, and the same was rechristened as TA 170 of 1985. The aforesaid TA was disposed of vide order dated 27-4-87 (copy Annexure 1-A). Meanwhile Applicant No.1 had been granted due seniority and was transferred to M.L.Government Boys Senior Secondary School Narela on January 10, 1978 and was

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also given the Selection Grade of the post of Graduate Teacher from October 30, 1983. On a representation made by the Applicant No.1 to the Lt. Governor, his services were regularised with effect from 1-12-75 as Post Graduate Teacher (English) vide order dated October 13, 1986 (copy Annexure-1). The Applicants have averred that even though, they have been working in the regular cadre w.e.f. 1-12-75, but they have not been given their due promotion to the next higher post intentionally, wilfully and they have been discriminated against without any basis. As a result of deliberations of the meeting held between the officers of the Directorate of Education and the Directorate of Technical Education on April 27, 1977, it was decided that a separate cadre be formed for the staff of Directorate of Technical Education and that ~~and~~ their cadre, promotions and other service conditions be specified separately. It was also pointed out that such cadre already exists in the Department of Education for the staff transferred from the Municipal Corporation of Delhi and that it may not be difficult to form a separate cadre on the same pattern for the staff of transferred schools also. Notwithstanding the representation made by Applicant No.1, the orders of the Lt. Governor to the effect that the regular staff of the Senior Secondary School absorbed and transferred to the Directorate of Education shall be entitled to all the benefits of the past service including seniority etc., the respondents have not

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promoted the Applicants to the next higher post of Vice Principal. The Applicants have added that they fulfil all the eligibility qualifications and respondents have promoted several Teachers junior to them, but they are not being granted seniority and promotion due to non-implementation of the decision of forming a separate cadre. Saying that they have been subjected to hostile discrimination, thereby infracting the ⁱⁿ Fundamental Right ~~RIGHT~~ to Equality enshrined in Articles 14 and 16 of the Constitution, the Applicants have prayed for a direction to the respondents to implement the order dated August 19, 1986 for forming a separate cadre showing their seniority and granting them promotion to the post of Vice-Principal. The Applicants have also sought consequential benefits.

2. After stating that the services of the Applicants have been regularised and they have also been assigned due seniority after including their names in the tentative seniority list, the respondents have averred in the counter that the Applicants cannot claim promotion on the pattern of the staff transferred from the Municipal Corporation, Delhi and that the decision to constitute a separate cadre has been taken and there is no violation of the decision taken by the Lt. Governor. Respondents have also refuted the claim of the Applicants to be promoted to the post of Vice Principal on the basis

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of the Recruitment Rules annexed.

3. Applicants have reiterated their case in the rejoinder adding that the respondents are trying to delay the formation of a separate cadre and are bent upon not to implement the order of the Secretary of Education for constituting a separate cadre for the Teachers transferred from the Technical Schools to the Education Department.

Directorate of

4. We have heard the arguments addressed by the learned counsel for the parties and have considered the pleadings of the parties, documents on record as also the relevant notings in the file produced by the respondents.

5. During the course of arguments, the learned counsel for the respondents submitted that the Applicants cannot claim promotion as of right and that the question of their promotion shall have to pend till the constitution of a separate cadre for the staff transferred from the erstwhile Technical Schools to the Education Department. The learned counsel also urged that the Applicants are not justified in claiming promotion on the basis of Recruitment Rules, Annexure-IV, and that the matter of constitution of a separate cadre is under active consideration. The learned counsel for the Applicant countered by stating that the implementation of the decision taken as far back as August 1986 and even prior thereto, has been inordinately delayed. This is causing loss and prejudice to the Applicants and that the respondents should be

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directed to implement the orders of August, 1986 for framing a separate cadre for the staff transferred from the erstwhile Directorate of Technical Schools to the Education Department. It cannot be gainsaid that the implementation of the orders made as far back as August 1986 for framing a separate cadre for the staff transferred from the erstwhile Directorate of Technical Schools to the Education Department has been much too delayed. This is causing hardship and prejudice to the Applicants, who have been kept in suspense. The inordinate delay in the matter seems to lack total justification.

6. In the premises, the respondents are hereby directed to implement the order dated August 1986 for framing a separate cadre for the staff transferred from the Directorate of Technical Schools to the Education Department and to grant consequential benefits to the Applicants within a period of three months from today.

7. Application is disposed of on the terms stated hereinabove, leaving the parties to bear their own costs.

D.K.Chakravorty
(D.K.Chakravorty)

AM

B.S.Sekhon
(B.S.Sekhon)
VC
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