

(5)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.999/87

Date of decision: 04.12.1992.

Shri R.K. Gupta

...Petitioner

Versus

Delhi Administration & Another

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

In person

For the respondents

None.

Judgement(Oral)

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

The petitioner, Shri R.K. Gupta was appointed as a Trained Graduate Teacher (TGT for short) on 29.10.1963 and posted against the post of Post Graduate Teacher (PGT for short). He was regularly promoted as PGT by order dated 13.10.1966 retrospectively from 7.7.1965. In all the subsequent seniority lists of the department the petitioner has admittedly been given ranking on the basis that he got into the cadre of PGTs w.e.f. 7.7.1965. He did not make any grievance about it for nearly two decades. 25% of the vacancies are required to be under selection grade. The petitioner's case is that in the seniority list in force at the relevant point of time he was at rank No.925 whereas persons below upto the rank No.942 were given the benefit of the selection grade. The petitioner appears to have

made representations which ultimately did not yield any favourable response. In this background, he issued a notice under Section 80 of the Code of Civil Procedure on 29.9.1985 for which there was also no response. It is his case that he did not approach any Court for relief immediately for the reason that his wife was ailing with Cancer who died on 11.4.1986. It is only thereafter that he was able to file the present petition before the Tribunal on 21.7.1987. The petitioner submits that he had engaged a counsel. As he is not available to argue his case and as he is not in a financial position to engage another lawyer he prayed that he may be allowed to argue his case in person. Accordingly, we heard Shri Gupta's arguments.


2. During the course of the arguments having regard to the subsequent events he submitted that there is no need for him to press his prayers for grant of selection grade. He submitted that only relief No.3 viz. that he may be granted all monetary benefits on the basis of doctrine of 'equal pay for equal work' for the period from October 29, 1963 to October, 1966. Hence, it has become necessary for us to examine if this prayer can be granted.


3. The case of the petitioner is that though his appointment as TGT on 29.10.1963 which was against the post of a PGT and he was in fact made to function and teach as a PGT. This position continued until he came to be promoted on regular basis as PGT by order dated 13.10.1966. Though retrospective date of promotion has been given from 7.7.1965 he was not given any arrears of emoluments of the higher post from 7.7.1965. The petitioner's case is that he having discharged functions of a superior post of the PGT he was entitled to the wages attached to that post and not the lower wages attached to the post of TGT. In other words, he claims the arrears of emoluments due on the basis of this principle for the period from October, 1963 to October, 1966. It is necessary to note that this is a highly belated claim. The Suit for relief in the Civil Court also was barred by time long back, the period of limitation in this behalf being three years from the date of accrual of the cause of action. If the petitioner's remedy was barred by time before he approached the Tribunal for relief, it is obvious that he cannot claim any relief at the hands of the Tribunal. Besides having regard to the provisions of Section 21 of the Administrative Tribunals Act, 1985 this claim of the petitioner in respect of which cause of action arose more than

three years before coming into force of the Act the Tribunal has no jurisdiction to entertain this application. It is on this short ground that this petition is liable to be fail.

4. It was, however, submitted by Shri Gupta that he was not aware of his legal rights and that it is only when an order dated 22.7.1987 made in favour of one Shri S.D. Sharma was circulated that he became aware that he has also the right to get similar relief. The order which he has produced only says that Shri S.D. Sharma is proposed to be given appropriate ranking on the basis of the decision taken by the authorities in this behalf. The taking of a decision in the matter in the case of another Teacher does not give the petitioner any fresh cause of action to revive the claim which already stands barred. Hence, it is obvious that the petitioner cannot on the strength of the said order seek any relief in these proceedings.

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


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN