

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

16

O.A.No.108/90

New Delhi, this the 21st day of September, 1994.

HON'BLE SHRI D.P.SHARMA MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Shri Chander Singh Dahiya
s/o Shri Kewal Singh Dahiya
ex-Principal,
Govt. Boys Jr. Sec. School,
Kherakhurd, Delhi.

..Applicant

(BY Advocate Shri C.B.Verma)

Vs.

1. Union of India, through:

Lt. Governor,
Raj Niwas, Rajniwas Marg, Delhi.

2. Delhi Administration, through:

Chief Secretary,
5, Shamnath Marg, Delhi.

3. Director of Education,
Delhi Administration,
Old Secretariat, Delhi.

4. Education Officer,
Zone IV, District North,
Lucknow Road, Timarpur, Delhi.

..Respondents.

(By Mrs. Avnish Ahlawat, Advocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

The applicant was functioning as Principal in Government Boys Senior Secondary School, Kherakhurd, Delhi under Delhi Administration. He completed 60 years of age on 30-6-1989 and as per retirement age applicable in such cases an order dated 30-10-1988 (An.P3 to the OA) had been issued in advance indicating the pending date of retirement. The applicant made a representation to the Director of Education for extension by one year beyond 30-6-89 on the ground that he was a recipient of Municipal Award for having done commendable work in the field of education and such awardees are to be granted extension as per instructions of Director of Education dated 15-5-1987 (An.P2 to the OA). This

representation was made on 5-12-1988 but no reply was received by the applicant formally granting extension. It is the applicant's case that he continued to function as Principal beyond the date of 30-6-89 on the assumption that such extension was his right and also that no substitute had been posted to relieve him of the post of Principal. He continued to represent ~~had~~ but ultimately ~~had~~ to hand over charge when a new Principal was posted on 9-1-1990. It is the applicant's case that he has not received salary for the period from July 1989 to January 1990. This O.A. has been filed with the prayer for the following reliefs:-

- a) Treat the applicant in service as Principal of Senior Secondary School and in the pay scale thereof with right to earn next increment for a period of one year beginning from 1st July 1989 onwards.
- b) Release the applicant's salary (pay and allowances) for the months of July 1989 to January 1990 forthwith to avoid continuing hardship to the applicant and his family.
- c) Treat the applicant on extension in service for a year as a Municipal Awardee in terms of the respondents letter (An.P2) for the period 1-7-89 to 30-6-90 and to pay to him all salary allowances, other perks and privileges including the increment falling due during the above period.

Further prayer regarding release of settlement dues was not pressed since these amounts were released subsequent to the filing of the O.A.

2. The 1st. counsel for the applicant referred to the orders of the Director of Education dated 15-5-87

which read as under:-

"Sub: Regarding extension in service to Municipal Awardee boys after age of superannuation.

I am pleased to convey the orders of the Administrator, Delhi that the teachers of Special Cadre whose services were transferred to Delhi Administration as on 1-7-70 and who are recipient of Municipal Awards may be granted extension in service after their attaining the age of superannuation on the following conditions subject to:-

Municipal Award

1. A teacher whose services were transferred as on 1-7-1970 having a Municipal Award may be granted extension beyond the age of superannuation for one year only subject to the condition that he/she is physically and mentally alert.

2. These orders will be applicable to the Special Cadre teachers w.e.f. 1st May, 1987

3. The above instructions may be brought to the notice of all concerned for their information and guidance."

It is his claim that in view of the above orders, he has a right to be given one year extension. The counsel for the applicant also referred to the case of extension given to one Shri Ishwar Singh, Headmaster who was similarly circumstanced and was given extension by orders dated 1-9-1989.

3. The respondents have, however, taken a stand that the services of the applicant were taken over with effect from 1-1-1970 by Delhi Administration when the applicant was Headmaster and then he was placed in special cadre. He was subsequently promoted as Vice Principal and as per existing terms and conditions he was placed in the administrative cadre. He was further promoted as Principal. As having been promoted as Principal in administrative cadre the privilege of having extension on the basis of Municipal Award was ceased. As regards Shri Ishwar Singh whose case was quoted by the applicant, it was mentioned that the

latter belonged to the special cadre and was thus eligible for extension.

4. The ld. counsel for the applicant, however, disputed this argument and contended that the applicant was still continuing as teacher even as Principal and was thus eligible for the special provision.

5. We do not propose to go into this aspect since if any extension has to be granted, this cannot be assumed or claimed as a right. The applicant did represent for his extension but he did not receive any reply nor was any order issued granting him extension. It is his own admission that even the salary for July 1989 was not passed in the absence of sanction for extension.

6. It was then argued that the applicant was sent for medical examination some time in June 1989 and this was done with a view to consider his extension.

7. The respondents in the reply have stated that he was inadvertently sent for medical examination. The applicant's further argument was that he continued to function as the Principal of the School till January 1990 and had even exercised powers of the Principal. During arguments the applicant who happened to be present mentioned that he had even taken classes during the period and exercised certain financial powers. The reply only states that the applicant has been attending the school without any orders. The learned counsel for the respondents argued that the applicant having received pension from July, 1989 onwards has no case for claiming salary for the period from July, 1989 to January, 1990.

8. Regarding the aspect whether applicant discharged the functions of Principal during the disputed period and if so, to what extent, proper details could not be furnished by the respondents.

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9. In the circumstances of the case the only direction that can be issued to the respondents is that they should check from the records as to the actual work performed by the applicant during the period from June 1989 to January 1990. The applicant is also given liberty to file representation/ supporting document in this regard within a period of two months from the date of this order. The respondents shall consider these as well as their own records within a further period of three months and take a decision as to whether the applicant could be considered for payment for the affected period. It is needless to add that the pension for the period already paid should be suitably adjusted. A final decision taken by the respondents should be communicated to the applicant within three months from the date of receipt of a representation as mentioned above.

10. O.A. is disposed of with the above directions.
No costs.

P. T. J. A.

(P. T. THIRUVENGADAM)
MEMBER (A)

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J. P. SHARMA

(J. P. SHARMA)
Member (J)