

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2287/90  
T.A. No.

199

DATE OF DECISION 8.10.91

<u>Shri Kuldeep Chander Sharma</u>	Petitioner
<u>Shri S.K. Bisaria</u>	Advocate for the Petitioner(s)
Versus	
<u>Lt. Governor of Delhi &amp; Anr.</u>	Respondent
<u>Ms. Ashoka Jain</u>	Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J).

The Hon'ble Mr. B.N. Dhoundiyal, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *1/10*
4. Whether it needs to be circulated to other Benches of the Tribunal?

### JUDGEMENT

(of the Bench delivered by  
Hon'ble Member Shri B.N. Dhoundiyal)

1. This Original application has been filed by Shri Kuldeep Chander Sharma, requesting for issue of directions to the Respondents to grant extension of service to him for a period of two years from the date of retirement i.e. 15.11.1989 to 16.11.1991 on the grounds of his being a State Award winner.
2. The applicant was appointed in 1952 as Trained Graduate Teacher, promoted as Post Graduate Teacher in 1969 and finally promoted as Principal in March 1977.

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The applicant retired from service on attaining 60 years of age from the post of Principal on 15.11.1989. He was re-employed for the period 1.12.1989 upto 31.03.1990. The applicant came to know that he had received a State Award on 08.03.1990. Thereafter he applied for extension of service on 14.03.1990, which was recommended by the Director of Education on 24.04.1990. His representation dated 23.05.1990 and 08.10.1990 remained unreplied. Similarly situated persons S/Shri M.O.Farshori and R.P.Bhatnagar had been granted extension of service on the basis of being 'State Awardees'. He has contended that all State Awardees are invariably being given extension for two years and exception has been made only in his case. His reemployment as Principal is continued under the stay order granted by this Tribunal till date. The applicant has requested issue of appropriate directions to the respondents to grant him extension of service as Principal from 16.11.1989 till 15.11.1991.

3. The basic facts are admitted by the respondents, but they have contended as follows:

(a) Rule 110(2) of the Delhi School Education Rules, which is basically applicable to aided schools, <sup>by</sup> does not make it obligatory that extension in service must be granted to all the State Awardees. Moreover, the rules also provide for medical examination to ascertain whether the employee is physically and mentally alert.

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(b) The list of State Awardees for the year 1989 was finally decided on 1st March, 1990, whereas, the applicant had already retired on 16.11.1989. Explaining the reasons for giving extension to similarly placed employees, Shri R.P. Bhatnagar and Shri M.O. Farsheri, the respondents have stated that initially in the first meeting of the empowered committee held on 5.9.89, only 20 teachers were selected and the names of above two principals were included therein. Their cases for extension of service were processed in anticipation of announcement of the Award. Before the issue of orders for extension of service, all pensionary benefits given to them were recovered and deposited in the Government Treasury. The applicant's name was also included in the list in a subsequent meeting held on 1.3.90 i.e. after his retirement.

4. We have gone through the records of the case and heard the arguments of the learned counsel for both the parties. Rule 110(2) of the Delhi School Education Rules reads as under:-

"STATE AWARD

A teacher obtaining a State Award may be granted extension beyond the age of superannuation on year to year basis for a total

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period of two years subject to the condition that he/she was physically and mentally alert." Discretion is given to the authorities for grant of extension subject to the employee being physically and mentally alert. The averment made by the applicant that it is the usual practice to grant such extension to all the State Awardees has not been denied by the respondents. We are not convinced by the reasons given by the respondents that there is a material difference between the applicant's case and the cases of his colleagues which were processed in anticipation of announcement of Award and whose retirement benefits were recovered and deposited in the Treasury. The fact that there was a delay in announcing the Award, cannot be attributed to the applicant and he should not be made to suffer for it. We also note that the respondents employed the applicant vide order dated 27.12.1989 for the period from 1.12.89 to 31.3.90 and thereafter he has continued working as a Principal till date. Even if granted two years of extension, he would be retiring on 30.11.1991.

5. In the conspectus of the facts and circumstances of the case, we are of the opinion that in all fairness, the respondents should have given to the applicant the benefit of extension of service as he is a State Award winner. The respondents are, therefore, directed to issue appropriate orders in this regard for the period from 16.11.1989 to 15.11.1991, treating the said period as extension of service. The applicant would also be

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entitled to all consequential benefits of pay and allowances. His pension and other retirement benefits should also be revised on that basis. The respondents shall comply with the above directions within a period of two months from the date of receipt of this order.

6. There will be no order as to costs.

*B.N. Dhoundiyal*  
(B.N. DHOUNDIYAL) 8/10/91  
MEMBER(A)

*P.K. Kartha*  
(P.K. KARTHA) 8/10/91  
VICE CHAIRMAN(J)