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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1578/91

New Delhi, this the 4th day of June, 1996

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Shiv Rattan Gupta,
s/o late Sh. Ram Chander,
R/o IX/5135, East Old Seelampur,
Delhi-31.

... Applicant

By Advocate: Shri A.K. Gupta

Vs.

1. The Director of Education,
Delhi Administration,
Old Secretariat, Delhi.
2. The Chief Secretary,
Delhi Administration,
5, Sham Nath Marg, Delhi.
3. The Lt. Governor of Delhi,
6, Raj Niwas Marg, Delhi.
4. The Secretary,
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan,
New Delhi.

... Respondents

By Advocate: Shri Vijay Pandita

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Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant, who retired as Principal in a school under the respondents in November, 1990, had filed this application claiming that the respondents 1 to 3 had failed to fix his pay in the scale of Rs.2200-4000 with effect from 1.3.86 in accordance with the instructions issued by

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respondent No.4 i.e. Govt. of India, Ministry of Human Resources Development (Department of Education) ^{in v/s} letter No. F.5-180/86-UTI dated 12.8.87 followed by clarifications via letter of even number dated 3.11.87.

2. After the pleadings had been completed, the applicant unfortunately expired on 26.1.92. Thereafter his legal heirs pressed MA 451/95 which was allowed by order dated 25.3.96.

3. We have heard Shri A.K. Gupta, son. of the applicant and Shri Vijay Pandita, learned counsel for the respondents and perused the record.

4. The applicant's case is that he has completed 12 years' service in the scale of Rs.2000-3500 on 1.3.86 i.e. from 1.3.74 to 9.3.83 as Post Graduate Teacher (P.G.T.), in the senior scale ~~and~~ from 10.3.83 onwards as Vice-Principal, and the scales of pay as PGT, senior scale and Vice-Principal are the same. After 1.1.86 in terms of letter issued by respondent No.4 dated 12.8.87, the applicant claims that even after his promotion to the post of Vice-Principal on 10.3.83 which was on ad hoc basis, he continued to work in the same scale of Rs.2000-3500 and more-over he had a lien in the post of P.G.T. Therefore, on completion of 12 years service in PGT, senior scale, in accordance with the respondents' letter dated 12.8.87 he ought to have been fixed in the pay scale

of Rs.2200-4000 and not in the pay scale of Rs.2000-3500 from 1.3.86. The applicant has pointed out that respondent No.1 had issued order No.2 dated 28.1.91 in which posts of PGT, selection scale were shown in the scale of Rs.2200-4000. However, ~~this~~ order was not implemented. Further, it has been pointed out that respondent No.1 has failed to issue necessary instructions to fix the pay of the applicant for which no reply has been filed by respondent No.4.

5. The respondents have submitted that the applicant cannot be fixed in the pay scale of Rs.2200-4000. They have submitted that "the officer was in the pay scale of Rs.775-1000 as on 1.1.86. It is stated that officer being promoted as Vice Principal in the ^{year} 1983 was in the pay scale of Rs.650-1200 and accordingly his pay was fixed in the corresponding scale of Rs.2000-3500 under CCS(RP) Rules, 1986 in accordance with the Notification F.15(4)/10/86 dated 22.2.86 issued by the Govt. of India. - respondent No.4". From the submission made by the respondents above it is seen that the applicant who was admittedly promoted as Vice Principal from the PGT senior scale in 1983 has been put in the scale of Rs.650-1200, which shows that the starting salary in this scale is lower than what he has held in the scale of Rs.775-1000, and only the maximum in the scale is higher. If this is so, the promotion scale given to the applicant is not in order, as it is settled law that both

the lower and the higher pay in the scale should be higher than the post from which a person is promoted. The respondent have also stated that the applicant was "in the pay scale of Rs.775-1000 as on 1.1.86" when already he has been promoted as Vice-Principal in 1993 in the scale of Rs.650-1200. The different stand taken by the respondents that he was in the scale of Rs.775-1000 as on 1.1.86 is not only anomalous but contradictory. They have also not given any satisfactory reply to the averments made by the applicant regarding Order No.2 dated 28.1.91 other than stating the their eligibility was ordered to be examined vide Order No.1 dated 29.1.91. We, therefore, find that the reply filed by the respondents 1-3 is sketchy, vague and wholly unsatisfactory and respondent No.4 has not cared to file any reply.

6. As per the letter dated 12.8.87 of Respondent No.4, the PGT who had put in 12 years in the senior scale would be eligible to be placed in the scale of Rs.2200-4000. It is noted that the post of Vice Principal carries the same scale of pay as the PGT(senior scale) of Rs.2000-3500. Admittedly the applicant had been promoted to the post of Vice Principal on an ad hoc basis and he, therefore, will have a lien in the post of PGT(senior scale) and would have completed 12 years service in that scale on 1.3.86. The applicant has drawn our attention to the respondents Order No.PA/OSD/C&P/GSTA/93/ 11161-12165 dated 15.5.96 in which the selection scale was also granted to officiating PGTs on the post of TGT as on 1.1.86,

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which principle appears to be applicable to his case also.

7. In the facts and circumstances of the case, we dispose of this O.A. with the following directions -

Respondents 1 and 4 are directed to consider the case of the applicant for grant of pay in the scale of Rs.2200-4000 with effect from 1.3.86 with consequential benefits keeping in view the above directions and pass a detailed and speaking order thereon within a period of two months from the date of receipt of a copy of this order with intimation to the legal representatives of the applicant. They shall also pay Rs.300/- as costs to the legal representatives of the applicant.

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

Antahk
(S.R. ADIGE)
MEMBER(A)

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