

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(b)

Regn. No. OA 2580/91 Date of decision: 08.05.1992.

Smt. Tara ModyApplicant

Vs.

Delhi Administration & Another Respondents

For the ApplicantShri Manu

Mridal, Counsel

For the RespondentsMs. Pinky

Anand, Counsel

CORAM:

THE HON'BLE MR. P. K. KARTHA, VICE CHAIRMAN (J)

THE HON'BLE MR. K. J. RAMAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

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JUDGMENT(ORAL)

(of the Bench delivered by Hon'ble Shri P.K.

Kartha, Vice Chairman(J))

We have heard the learned counsel of both parties. The grievance of the applicant who has worked as Educational and Vocational Guidance Counsellor {EVGC} is that the respondents have passed an order on 29.10.1991 to the effect that on attaining the age of 58 years, she would stand superannuated on 31.10.1991. She has prayed that the respondents be directed not to retire her at the age of 58 years and that she should be continued till the age of 60 years.

2. On 4.11.1991, the Tribunal passed an interim order directing the respondents not to give effect to the impugned order dated 29.10.1991.

3. The case of the applicant in brief is that she has worked in the post of EVGC since 1971. The nature of duties attached to EVGC includes teaching in classes, setting examination papers, marking them, invigilation duty during examinations, tabulation of examination results and all other duties entrusted to teaching staff, in addition to Educational and Vocational Guidance Work. She has stated that 26 periods in a week has been earmarked for teaching work and 6 periods for Educational and Vocational Guidance. The Guidance Work involves class talks, intelligence and aptitude tests etc.

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4. The applicant has sought to justify her claim for retirement at the age of 60 years on the basis of some documents annexed to the application. A copy of the Inspection Report of Govt. Boys Senior Secondary School, Nanak Pura, New Delhi, conducted on 1.12.1989 indicated that EVGC teacher is doing guidance work. She gives career talks to the students of Class X and XI and intelligence in IX. In VIth class, guidance is given such as how to study books and improve their hand-writing. She is taking English of VIth, VIIth and VIIIth in addition to her own work. There is also another Inspection Report dated 27.09.91 at Annexure IV to the application to similar effect.

5. The applicant is relying upon the letter dated 6.9.1983 issued by the Ministry of Education and Culture, Department of Education, wherein it has been stated that teachers including Primary School Teachers, Library Assistant, Librarians, Principals, Vice Principals working in schools would be entitled to enhancement of age of retirement to 60 years.

6. The applicant has also relied upon the Seniority List issued by the Directorate of Education on 18.07.1991 in which the names of Post Graduate Teachers (Female) have been given including the EVGCs.

7. The respondents have contended in their counter-affidavit that the Seniority List relied upon by the applicant has been withdrawn by the Directorate of Education on 28.10.1991 and 1.11.1991.

8. The respondents have contended that the applicant is only a Guidance Counsellor which post is distinct and separate from that of a teacher. ^{*or similar*} They have also stated that in the case of Mrs. Saroj Bhatnagar, EVGC, the request of extension upto 60 years was not acceded to.

9. The learned counsel for the applicant laid stress on the duties performed by the applicant in the school which is also borne out from the Inspection Report mentioned above. He also draws out attention to a time-table issued by the Principal of the School in which the applicant had worked in which ^{*✓*} teaching work ~~is~~ has been assigned to the applicant.

10. After hearing both sides, we are of the opinion that the duties performed by the ^{*are*} applicant ~~is~~ substantially that of a teacher like any other teacher in the schools under the Directorate of Education and that the mere fact that the applicant is entrusted with the work of counselling the students would not take away the character of her being a teacher. ^{*✓*} In a sense counselling the students is also part of teaching. We, therefore, hold that the

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age of retirement of the applicant would be 60 years of age and not 58 years of age. We accordingly set aside the impugned order dated 29.10.1991 and direct that the applicant shall be allowed to work as Educational and Vocational Guidance Counsellor{EVGC} till she attains the age of 60 years when she would superannuate from service.

11. The interim order passed on 4.11.1991 is hereby made absolute.

There will be no order as to costs.

K.J. Raman

(K.J. RAMAN)
MEMBER(A)
08.05.1992

P.K. Kartha

(P.K. KARTHA)
VICE CHAIRMAN(J)
08.05.1992

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