

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.698/91

Dated this the 10th Day of April, 1995.

Hon. Shri P.T. Thiruvengadam, Member(A)  
Hon. Dr. A. Vedavalli, Member(J)

Shri S.N. Dixit,  
S/o Shri D. Dixit,  
Age 53 years,  
Post Graduate Teacher,  
Govt.Coed.Sr.Secondary School,  
New Multan Nagar,  
Delhi 110 056.

...Applicant

(Advocate: Shri K.N.R. Pillai)

versus

Delhi Administration through  
The Director of Education,  
Old Secretariat, Delhi

...Respondents

(Advocate: Shri Jog Singh by Shri S.K. Sinha)

O R D E R (Oral)

(By Shri P.T. Thiruvengadam).

The applicant states that he was included in the panel of candidates selected for the post of Post Graduate Teacher(PGT) in Hindi in the pay scale of Rs.250-470 under the Directorate of Education, Delhi Administration. The Central Staff Selection Board had finalised the proceedings in November 1967. The applicant is at Sl.No.22 of the list and it is his case that out of those in the list, only candidates (General Community) upto Sl.No.17 had been considered for posting and he was left out. Further, it is his plea that in the case of one Shri S.D. Sharma, who had represented in the year 1987, the respondents had reviewed the matter and had given the benefit of notional posting as PGT to him, from the date when he was appointed in a lower post. The applicant made a similar representation that his case should also be reviewed as had been done in the case of Shri S.D. Sharma. The respondents have rejected the

1

representation of the applicant by memorandum dated 17.12.90 (Annexure A-X). It has been advised that the case of Shri S.D. Sharma is being reviewed and accordingly the applicant's case cannot be decided in his favour till a final decision is taken in the case of Shri S.D. Sharma. This OA has been filed challenging the impugned memorandum dated 17.12.90 and for a direction that the applicant should be deemed to have been appointed in the direct recruitment quota in 1967. Consequential benefits have also been prayed for. It is admitted that the applicant was promoted later in 1974 as PGT on the basis of his seniority.

2. The learned counsel for the respondents argued at the outset that the issue raised is for operation of the list made sometime in the year 1967 and raising this plea at this late stage is a hopelessly belated exercise.

3. The learned counsel for the applicant however maintained that limitation will not apply in his case since the panel made in 1967 was not published. In 1987, when Shri S.D. Sharma made a representation and the respondents decided to consider it favourably, objections were invited from other affected parties. At that stage, old records were allowed to be inspected and that was the first occasion when the applicant found that he had also figured in the select list finalised in 1967. It was, however, fairly admitted that, further select lists were issued subsequent to the list of 1967 and appointments against direct recruitment quota have taken place.

4

The respondents have chosen to dispose of the representation of the applicant by the memorandum dated 17.12.90 and hence, the filing of the OA in March 1991 was claimed to be in time.

4. As regards the merits of the case, the learned counsel for the applicant advanced two grounds: (i) the benefit extended to Shri S.D. Sharma who is similarly situated cannot be denied to the applicant; and (ii) having included the name of the applicant in the list finalised in November 1967, the applicant should have been appointed as a PGT Teacher and only after exhausting the entire list, further recruitment, if any, should have taken place.

5. Regarding the first ground, the learned counsel for the respondents drew our attention to the reply, wherein, it has been conceded that the case of Shri S.D. Sharma itself was not in order and needs to be reviewed. It has become imperative to reexamine the case of Shri S.D. Sharma and to withdraw the benefits given to him, if not found in order. On scrutiny, we note that the benefit extended to Shri S.D. Sharma had arisen apparently on the ground that when he was interviewed for the post of PGT in the year 1960 and found fit, he was not offered this post but only a lower post, though there was a vacancy of PGT. The applicant represented that, in his case, similar lapse in assessment of vacancies had taken place in 1967. Be that as it may, we note that the respondents have now averred that the posting of Shri

9

S.D. Sharma as PGT with retrospective effect is not in order. In Madras Fertilizers Limited versus Additional Customs Collector reported in JT 1994 (1) SC 150, their Lordships of the Supreme Court have referred to the earlier observations of the apex Court in the Coromandel Fertilizer's case that "a wrong decision in favour of any particular party does not entitle any other party to claim the benefit on the basis of the wrong decision." In view of the above observations of the Hon. Supreme Court and the averments of the respondents that the case of Shri S.D. Sharma is itself not in order, the claim of the applicant that he should be dealt with like S.D. Sharma, cannot be sustained.

6. On the aspect of the applicant not having been appointed as PGT though included in the list of November, 1967, the learned counsel for the applicant cited the orders passed by the Hon. Supreme Court in Civil Appeal No.1900/87, disposed of on 4.8.89. This appeal had been filed against the order of this Tribunal in TA.462/85. The apex court had observed that the Tribunal had recorded that the Director of Education was himself in the Selection Board and would have been in a better position to know the number of existing and anticipated vacancies of PGT required to be filled up in the Education Department. That was a case where, against the notified 654 vacancies, a total of 1492 names had been included in the select list of 1984. The orders of the Tribunal that all the candidates in the select list should be accommodated

3


12

prior to going in for further recruitment were confirmed by the Hon. Supreme Court which had concluded that the panel had been prepared for 1492 vacancies, as then available.

7. We however, note certain distinguishing features in the above orders. It has been noted by both the Tribunal and the apex court that the Staff Selection Board had recorded that the panel of selected candidates will remain valid till all the candidates are offered appointment. The panels were displayed on the notice board specifically stating that the appointment would be in the order of merit and that, appointments would be made from the select list, till the last candidate is appointed.

8. In that case, the panel had been approved sometime in the year 1984 and the OA had been filed challenging the letter of the respondents dated 5.3.85, by which, the respondents proposed to limit the appointment to only 654 candidates corresponding to vacancies notified. In other words, the applicants had approached the Tribunal well in time.

9. In the case before us, we find that the Selection Committee which met in 1967 had recorded that the recommendation of the Board unless exhausted earlier, would remain operative for a period of one year. This is in contrast with the decision of the Selection Board in the case before the Hon. Supreme Court, wherein, the Selection Board had itself decided



that the panel would remain valid till all the candidates are offered appointment. Again we note that the applicant herein, has approached this Tribunal after a lapse of 24 years during which period, a large number of candidates from later panels have been appointed. Thus, this case is not on all fours with the case relied upon.

10. The learned counsel for the applicant then cited orders passed by their Lordships of the Hon. Supreme Court in Prem Prakash versus Union of India (1985 (2) SLR 757). On a perusal, we note that the candidates who are included in a panel require to be considered to the extent of declared vacancies based on which, the panel had been formed.

11. In the instant case, we note from the Selection Board proceedings of November 1987, the Board had been intimated that there were 8 posts in the grade of PGT to be filled up on regular basis by direct recruitment. The learned counsel for the applicant tried to establish that there were many more vacancies at the relevant point of time. On the other hand, the respondents plead that the records relating to 1967 are not available. In any case, we note that the Board was intimated to make recruitment for 8 posts. Whether assessment of 8 posts was correct or not, as per the prevalent situation, cannot be challenged at this late stage after a lapse of two to three decades.

12. Apart from the above, we note that all necessary parties have not been impleaded. Any claim for seniority can be considered only after giving an opportunity to those likely to be affected. Even on this ground, the OA cannot be sustained.

13. In the circumstances, the OA is dismissed with no costs.

A. Vedavalli

(Dr. A. Vedavalli)  
Member(J)

P. T. Thiruvengadam

(P.T.Thiruvengadam)  
Member(A)

/kam100495/