

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 820/92

Date of Decision : 30.10.92

Shri D.R. Nim

...Applicant

vs.

The Director of Education,
Delhi Administration, Delhi.

...Respondent

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...In person

For the Respondent

...Ms. Paramjeet, proxy
counsel for Sh. J.P. Singh,
counsel

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

JUDGEMENT

The applicant is the retired Vice-Principal of Delhi Administration, Delhi and has assailed the order dt. 7.6.1991 passed by the Director of Education, Delhi whereby the payment of officiating allowance or fixation of the same in the Principal's grade was refused. The applicant was informed that his case is not covered under the Rules and he is not entitled for sanction of officiating allowance of the post of Principal of the institution. The applicant has prayed for the relief that the respondent be ordered to pay the honorarium to the applicant admissible as per Rules or for fixing the pay of the applicant in the pay scale of Principal for officiating as Principal as per Rules.

2. I have heard the applicant in person and the learned counsel for the respondent. The case of the applicant is that since December, 1982, the applicant has been working as the Principal in Government Boys Senior Secondary School, S.P. Road, Nagloi. The Director of Education issued an order dt. 12.4.1987 that all the Vice-Principals of Senior Secondary Schools, who are working independently will work till such time as regular Principal is posted in their schools as Head of Office in respect of staff working in their schools. They will also act as controlling officer in respect of TA/medical claims of the non gazetted staff under their control (Annexure A2). The contention of the applicant is that he has officiated as Principal w.e.f. August, 1986 to 12.1.1990 except the period from 17.3.1988 to 30.6.1988 and a certificate in this respect has also been annexed to the application as Annexure A3. Thus the applicant argued that for all purposes he was working as Principal on a higher post and has been discharging the duties as Principal. So he is entitled for the benefit of FR 49(1). The applicant had made representation to the authorities on 14.7.1988 as well as on 3.3.1990 and again on 16.4.1990 and 23.11.1990, but

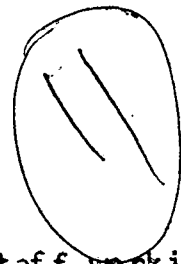
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he has not been given any officiating allowance and hence the present application was filed by him on 11.3.1992.

3. The respondent contested the claim of the applicant and the learned counsel for the respondent argued that as per Finance Ministry's OM No.16(25)/8-11(N)90 dt.21.9.1960 appended at para-6 under FR 46(B), the duties attached to a sanctioned post cannot be regarded as occasional or intermittent in character. The Government servant is required to perform additional duties attached to another sanctioned post in addition to his own duties. Honorarium under FR 46(B) will not, therefore, be admissible to a Government servant, who is required to perform the additional duties of a sanctioned post. The applicant was only delegated powers as Head of Office, i.e., additional duties attached to a sanctioned post of Principal and as such he is not entitled to any over time allowance or honorarium or higher pay scale for performing such duties. The order dt. 12.4.1987 relied by the applicant clearly states that all the Vice-Principals of Government Senior Secondary Schools, who are working independently till such time a regular Principal is posted in their schools are

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designated as Head of Office in respect of staff working at their schools and they will also act as controlling officers in respect of TA/medical claims of non gazetted staff under their control. It is further argued by the learned counsel for the respondent that there is no order appointing the applicant or posting him either regularly or on officiating basis to the office of the Principal. The order dt. 12.4.1987, therefore, does not clothe the applicant fully or partially with the office of the Principal and the applicant has only drawn an inference by virtue of allocation of additional duties as Head of the Office and as controlling officer for certain specified purpose of subordinate staff.

4. I have considered the matter in greater detail.

The case of the applicant is not covered under FR 49(1), which is as follows :-

- "(i) Where a Government servant is formally appointed to hold full charge of the duties of a higher post in the same office as his own and in the same cadre/line of promotion, in addition to his ordinary duties, he shall be allowed the pay admissible to him, if he is appointed to officiate in the higher post, unless the competent authority reduces his officiating pay under Rule 35; but no additional pay shall, however, be allowed for performing the duties of a lower post;

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Further sub clause (iv) of FR 49 is also reproduced below :-

"No additional pay shall be admissible to a Government servant who is appointed to hold current charge of the routine duties of another post or posts irrespective of the duration of the additional charge."

The case of the applicant, however, is covered by F.R.46(b)

which is reproduced below :-

"(b) Honoraria-The Central Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional or intermittent in character and either so laborious or of such special merit as to justify a special reward. Except when special reasons which should be recorded in writing, exist for a departure from this provision, sanction to the grant of acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the Central Government and its amount has been settled in advance."

5. Further it appears that the claim of the applicant is for a period upto 12.1.1990 from August, 1986 except for the period of three months from 17.3.1988 to 13.6.1988. The applicant has made the first representation in March, 1990 and he should have filed the application within one and a half year from that date, but the present application has been filed on 11.3.1992, i.e., about two years from the date of the representation. Thus the present application is also barred by Section 21 of the Administrative Tribunals Act, 1985. The applicant wants to

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lay extension of period of limitation from the order
dt. 7.6.1991 when he was informed that the amount cannot
be sanctioned. Even taking into account that the
applicant has waited for about one year and then filed
the present application, however, irrespective of the
delay in filing this application, the same has been considered
on merit.

6. In view of the above discussion, the applicant has
no case and the application is devoid of merit and is
dismissed leaving the parties to bear their own costs.

J. P. Sharma
30.10.92
(J.P. SHARMA)
MEMBER (J)

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