

Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.1026/92

New Delhi this the 14th Day of December, 1993.

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman
The Hon'ble Mr. B.S. Hegde, Member (J)

Smt. Suraj Paul wife of
Shri S.K. Paul, resident
of C-160, Manu Apartments,
Mayur Vihar, Delhi-110 092.

...Applicant

(By Advocate Shri P.P. Khurana)

Versus

The Director of Education,
Delhi Administration,
Old Secretariat,
Delhi-110 054.

...Respondent

(By Advocate: None)

ORDER(ORAL)

(Hon'ble Mr. N.V. Krishnan)

The applicant retired on 31.8.90 as a Principal of an educational institution under the respondent - the Director of Education, Delhi Administration. Her grievance relates to the computation of the service rendered by her for purposes of pension. The brief facts of the case are as follows.

2.1 The applicant was in service from 21.12.1953 to 17.7.61 as a Trained Graduate Teacher (TGT for short) (English) in Laxmi Devi Jain Girls Senior Secondary School, Pahari Dhiraj and Sardarni Sada Kaur Khalsa Girls Senior Secondary School, Daryaganj, both of which were recognised and aided by the Delhi Administration.

2.2 The applicant was then selected by the Delhi Administration as a Post Graduate Teacher (English) and she joined on 17.7.61. Since then the applicant was working continuously. She was

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promoted as a Principal from 27.6.73 and was in that capacity till she retired on 31.8.90.

2.3 On the eve of her retirement the applicant was asked to fill up the forms for claiming pension. Therein, the applicant had mentioned about the service rendered by her prior to 17.7.61 in the private schools from 21.12.53. However, the pensionary benefit of the applicant was calculated only on the basis of the actual Government service rendered by her from 17.7.61 to 31.8.90. This is evident by the Annexure A-3 statement filed with the O.A. wherein the qualifying service has been computed on this basis as 29 years one month and 15 days. The applicant's grievance is that the service rendered from 21.12.53 to 17.7.61 should also have been taken into account for the purpose of computing the pension. The representations made to this effect have not produced any result. In the circumstance this O.A has been filed for a direction to the respondents to re-calculate the pensionary benefits after taking into account the continuous service rendered by the applicant from 21.12.93 onwards and make payment to her from the date when the same became due alongwith interest at the rate of 18% per annum. For this prayer, the applicant mainly relies on the OM No.5-24/83-UTI(Vol-I) dated 12.1.88 issued by the Ministry of Human Resources Development (Department of Education) Government of India to the respondent.

3. Notice of the application was issued to the respondent which was served in April, 1992. Though the respondent was directed to file a reply,

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neither the respondent was represented nor was any reply filed. On 9.11.92 a direction was given to issue fresh notice to the respondent though the earlier notice has not been responded by him. It is also indicated that if the respondent still does not respond, the matter would be proceeded ex-parte.

4. A final notice in respect of hearing of this case was issued to the respondent which was served on 28.7.93. On 2.11.93 and subsequent dates was present. None none/ is present today. In the circumstances, we have heard the learned counsel for the applicant and perused the records.

5. The only question is whether the service rendered by the applicant prior to the appointment in Government service in aided/recognised schools from 21.12.53 to 17.7.61 is to be considered for pensionary purposes? The Annexure A-6, letter of the Ministry of Human Resources Development reads as follows:-

"Sub:-Counting of the services of the teachers and other employees rendered by them in Local Bodies i.e. MCD, NDMC, Cantt. Board, Aided schools, recognised schools in Delhi and out side Delhi - Clarifications regarding.

I am directed to refer to your letters NO.F.30-3(72)/88-Coord/10717 dated 7.3.88 and 4.4.88 on the subject mentioned above and to give the following clarifications:-

In regard to service rendered in Autonomous Bodies under State Governments and vice-versa counting of service for pensionary

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benefits will be allowed in respect of these State Governments with which reciprocal arrangement exist i.e. Karnataka, Madhya Pradesh, Punjab, Rajasthan, Sikkim, Tripura, Gujrat, Assam, Uttar Pradesh, Bihar, West Bengal, Meghalya, Himachal Pradesh and Goa (Fourteen State Governments). The above said benefit has been extended by the Ministry of Personnel, Public Grievances and Pension, Department of Pension and Penjsioners Welfare OM 28(10)/84-P&PW-Vol.II dated 7.2.86 and 27.5.88. Those orders will apply to the employees of the Central Government moving to State Autonomous Bodies to the State Governments and their Autonomous Bodies and vice-versa who are in service on the date of issue of the aforesaid orders irrespective of the date of their absorption. All the cases pertaining to the counting of service of teachers rendered by them in Aided/recognised schools in Delhi and outside Delhi prior to coming over to Delhi Admn. for pensionary benefits may be settled accordingly..."

6. A plain reading of this letter would indicate that the case of the applicant is fully covered by this letter and that the service rendered with the Aided/recognised schools should be counted towards pension. However, without expressing any final decision in this regard, we think it proper


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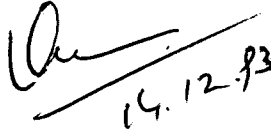
to direct the respondent to consider the applicant's case in the light of this letter and pass suitable orders in accordance with the provisions of law within a period of two months from the date of receipt of this order. In case the respondent finds merit in the prayer of the applicant the quantum of pension should be suitably revised in accordance with law and payment of arrears made within a further period of two months with interest at the rate of 12% per annum from 1.10.90, as the applicant had drawn the attention of the respondents to this circular of the Ministry of Human Resources Development in her representation dated 23.9.90 (Annexure A-4). In case the respondent finds that it would not be possible to accede to the request of the applicant, clear reasons should be stated in the order and copies of any circular/instructions of the Government that might be relied for taking such a decision should also be enclosed with that order and sent to the applicant within the same period.

7. We make it clear that if the applicant is still aggrieved, it is open to her to seek such remedy in accordance with law, if so advised.

8. The O.A is disposed of, as above, with no order as to costs.


(B.S. HEGDE)
MEMBER(J)

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(N.V. KRISHNAN)
VICE-CHAIRMAN