

6  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.2671/93

New Delhi, dated this the 19th August, 1994.

Shri N.V. Krishnan, Hon. Vice Chairman(A)  
Shri C.J. Roy, Hon. Member(J)

Shri G.C. Pandey,  
Drawing Teacher,  
Government B.M. School,  
Hari Nagar, Ashram,  
New Delhi.

...Applicant

By Advocate: Shri M.P. Raju, proxy for Shri Anuradha Kaushik.

versus

1. The Lt. Governor & Administration,  
National Territory of Delhi.

2. The Director of Education,  
Directorate of Education,  
Old Secretariat,  
Delhi.

...Respondents

By Advocate: Shri Jog Singh.

ORDER (Oral)

By Shri N.V. Krishnan.

The OA has been filed by the applicant claiming  
the following reliefs:-

- (i) Quash the order dated 13.11.1992 where the respondents have promoted the persons who were junior to the petitioners/applicant without considering the petitioners/applicant who were senior;
- (ii) Grant of order that the applicants are entitled for grant of PGT scale from the date from which their juniors have been promoted as PGT ie. 3.1.1974;
- (iii) Grant of orders to the respondents directing them to grant PGT Grade and PGT Pay Scale w.e.f. 3.1.1974, the date on which juniors have been promoted and to grant them all consequential benefits including arrears of pay and seniority as given in various judgement;
- (iv) Grant of the benefit of judgement given in the petitioners filed by similarly placed colleagues of the petitioners/applicant.

2. On 1.6.94, Shri M.P. Raju, proxy counsel for Shri Anuradha Kaushik, counsel for the applicant submitted that the prayer at S1.No.1 mentioned above, was not pressed. Therefore, the application was to be considered only in respect of prayers at S1.No.2,3 & 4.

3. The facts of the case are that in respect of the Drawing Teachers working in the Government School, a writ petition No.C.W.P.1479/73 (M.L. Sharma Vs. Director of Education & Ors.) was filed in the Delhi High Court, which was allowed with certain directions in 1985. At <sup>the</sup> about/same time, another writ petition CWP.1312/73 (Shri Thakur Das Sapra and Ors. vs. Lt. Governor & Ors.) was also pending in the High Court on the same issue, but <sup>the</sup> that petition was not disposed of along with/other petition. When this Tribunal was set up, this petition was received on transfer and registered as T-5/85, wherein, the decision in CWP.1312/73 (supra) was given on 23.2.87 (Annexure-III). The following directions were given:-

"that the petitioners cannot insist that they have a right to teach any particular class though they may have a justified grievance if their pay and allowances are affected because of retrospective amendment of the recruitment rules. The pay scale of teachers in the common cadre of Senior Grade teachers cannot be different and if higher scale is given to the teachers in the Senior Grade, the petitioners who were in the senior grade, would be entitled to the higher scale of pay".

4. Consequent upon this declaration, the respondents have issued an order dated 13.11.92 (Annexure-I) giving the benefit of promotion to the post of PGT Drawing/Engineering Drawing in the pay scale of Rs. 550-900 (pre-revised) w.e.f. 3.1.74 and Rs.1640-2900 w.e.f. 1.1.86. <sup>but</sup> The applicant, admittedly, is similarly situated <sup>but</sup> has not been granted the benefit, as he was not a petitioner in either of the two writ petitions filed before the Delhi High Court. He has, therefore, claimed the reliefs 2&3 mentioned above.

5. The respondents have filed the reply challenging the application. The two objections that have been raised that are/ the relief sought from 3.1.74 is, obviously barred and by limitation, / the applicant was not a party to the earlier petitions, and therefore, cannot be given the benefit of that judgement.

6. We have heard the learned counsel for the parties. Our attention is drawn by the learned counsel for the applicant to the following observations made in the Annexure-III judgement:-

"Following that judgement, this Tribunal too made a similar order against the Delhi Administration. The Delhi Administration having accepted the judgement in Sharma's case, we see no reason why it should not grant the same pay scale to all the petitioners who belong to the same category and are similarly placed and just as the others, had moved Delhi High Court by way of writ petition. If only those writs had been heard along with Sharma's case, we have no doubt that similar orders would have been passed. When the order in Sharma's case has become final and binding of the respondents, we deem it wholly inequitable to refuse similar benefit to the other members of the service who belong to the same category and are similarly placed. Judicial pronouncements should not result in the fixing of different pay scales for members of the same service and similarly placed. Having regard to the facts of the case and the circumstances in which we are required to consider the claims of the petitioners, we think it fair and just that all those drawing teachers should be treated equally and the Delhi Administration should not be allowed to discriminate against these few teachers that remain in this category. In this view of the matter, we direct that the same order as was made in Sharma's case should be made in this case...."

He contends that the applicant was only waiting for the Government to take a decision on the judgement delivered earlier in the petitions filed by his colleagues. Further, in so far as the Annexure-III judgement is concerned, though it was delivered on 23.2.87, the order was passed only on 30.11.82. The applicant made a representation seeking the benefit of these judgements by his letter dated 9.2.93 (Annex.VII). This representation has been rejected on 26.2.93.

7. The learned counsel for the respondents contends that this application is full of laches. The applicant was not vigilant enough to file a writ petition as was done by two groups in 1973. Nothing was done by him

when the judgement in Sharma's case was delivered on 20.12.85 and the Annexure III judgement was delivered on 23.2.87. It was only after the Annexure-I order was passed on 13.11.92 that he moved in the matter by filing a representation dated 9.2.93 (Annexure-VII). He, therefore, contended that on merits the applicant is not entitled to any relief.

8. We have carefully considered the rival contentions. We are of the view that when a particular pay scale is made applicable to certain teachers - either on the basis of their representation or due to orders of a court - the benefit of that scale can not be restricted to these teachers only. That benefit should be given to all teachers who are similarly situated. However, it can not be that persons <sup>not</sup> who were not vigilant and who had/taken prompt action to agitate for their rights, should be treated in the same way and to the same extent as others who took pains to enforce their rights. In this view of the matter, we are satisfied that the applicant is, no doubt, entitled to certain reliefs. It can not be that he is <sup>to be</sup> given these benefits from 3.1.74 despite his laches. In the circumstances, we are of the view that the interests of justice would be satisfied, if we issue a direction to the respondents to give to the applicant the same benefits as has been given to the petitioners in CWP 1312/73 by the office order dated 13.12.82 (Annexure I), but with the restriction that the promotion to the post of PGT(Drawing/Engineering) will be notional as on 3.1.74. His pay should be notionally refixed on 3.1.74 and from 1.1.86. However, the benefit of such pay fixation will accrue to the applicant only from the date he made the Annexure-VII representation to the Government i.e. from 9.2.93. The applicant would, however, be entitled to seniority and other consequential benefits that flows

(10)

out from such notional promotion from 3.1.74. The respondents are directed to comply with these directions within a period of three months from the date of receipt of a copy of this order. With the above order and direction, the OA is disposed of. No costs.

*J. Roy*  
(C.J. ROY)  
Member (J)

*N.V. Krishnan*  
19/8784  
(N.V. KRISHNAN)  
Vice-Chairman (A)

/kam/