

34.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 3/93

DECIDED ON : 7. 4. 93

H. B. D. Virmani

... Applicant

Vs.

Chief Secretary, Delhi
Administration & Ors.

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri C. B. Pillai, Counsel for Applicant
Mrs. Maninder Kaur, Counsel for Respondents

J U D G M E N T

Hon'ble Mr. J. P. Sharma, Member (J) —

The applicant whose date of birth is 10.2.1931, was appointed as Trained Graduate Teacher (TGT) in the Directorate of Education, Delhi on 7.2.1962. He was promoted to the post of Post Graduate Teacher (PGT) w.e.f. 13.7.1966 and was allotted seniority No. 1048. The applicant was given the State award in 1989 in recognition of his meritorious service in the field of education. Vide letter dated 5.12.1990, the applicant was granted extension in service for one year beyond his normal date of superannuation, i.e., 28.2.1991 till 9.2.1992. In the aforesaid letter it is also mentioned that he will be entitled to all the benefits as he would have got till the superannuation (Annexure A-IV). Again vide another letter dated 16.12.1991 (Annexure A-V) the applicant was further granted an extension in service for one year with effect from 10.2.1992 to 9.2.1993 on the same basis of his being a State awardee in the year 1989. This letter also mentions that he will be entitled to all the benefits as he would have got till the age of superannuation. In view of the

le

aforesaid two extensions of one year each, the applicant who should have retired on 28.2.1991, retired w.e.f. 9.2.1993.

2. The grievance of the applicant is that he has not been considered for promotion to the post of Vice Principal in the scale of Rs.2000-3500 on regular basis while juniors to him have been promoted vide letter dated 13.12.1991 (Annex.A-I). The applicant made a representation on 23.1.1992 followed by a reminder on 1.4.1992. The applicant was informed vide letter dated 3.3.1992 that the representation of the applicant was forwarded to Joint Secretary, Education, Directorate of Education, Delhi by the Administrative Officer. The applicant having not received a favourable reply, again made a representation on 1.9.1992 and when his grievance was not redressed, he filed the present application on 31.12.1992.

3. The applicant has claimed for grant of the following reliefs :-

(a) a direction to the respondents to consider the case of promotion of the applicant with effect from the date on which his immediate junior was promoted, i.e., 13.12.1991, with all benefits of arrears of pay and allowances to the applicant on his promotion with effect from the above date.

(b) to allow the application with costs.

4. The respondents in their reply contested the application and opposed the grant of relief stating therein that the applicant's case for extension could only have fallen within the instructions issued by the Government of India in the GIMF O.M. No.26011/1/77.Estt(B) dated 18.5.1977. The said

instructions lay down in para 8 that "No Government servant who is on extension of service after the prescribed date of retirement should be promoted to another post during the period of extension of service." It is further stated that juniors of the applicant were considered and promoted on 13.12.1991 and at that time the applicant was on extension in service and as such he was not eligible for consideration for promotion as per the above mentioned instructions.

Regarding the case of other juniors referred to by the applicant in para 4.12 and 4.13 of the O.A. it is stated that the applicant never represented against their promotion in view of the fact that the seniority of Harpal Singh and Purushottam Nath is 927 and 981 respectively while the seniority of the applicant is at sl. No. 1048.

5. The applicant has also filed rejoinder reiterating the same facts stating that the recipients of the State awards do not fall in the category of O.M. dated 18.5.1977 cited by the respondents.

6. We have heard the learned counsel for the parties at length and have perused the record. The grievance of the applicant is solely based on the fact that since his age of superannuation was extended by two years, i.e., the age of superannuation in his case came to be 62 years, so he should be given full benefits of the service rendered by him upto that age including the promotion to the higher post of Vice Principal on regular basis. In fact, the extension of service in two spells of one year each do lays down in their communication addressed to the applicant that he will be entitled to all the benefits as he would have got till the age of superannuation, but in para 1 of the same letters it

was only a grant of extension in service and the grant of extension in service is specifically governed by the O.M. dated 18.5.1977 referred to above which is also annexed by the respondents with their counter reply. The applicant has not challenged that particular O.M. nor has he relied on any such other circular or O.M./rule under which his extended service has to be treated as a regular service even for promotion to the higher post. In fact, if the applicant is given promotion to the higher post then those who are in the zone of consideration are likely to be deprived of their promotion and it is to safeguard that the Government of India has clearly issued guidelines as to how the service on extension after superannuation has to be considered and what sort of benefit shall be available to such incumbents who are retained even after the normal age of superannuation. Thus, in view of this fact, the applicant has no case.

7. As regards the promotion of Harpal Singh and Purushottam Nath, their seniority number is much earlier to that of the applicant and the applicant has not made any representation regarding his seniority position in the gradation list (Annex. A-II). Thus, the applicant cannot get any advantage of the fact that Harpal Singh and Purushottam Nath have been promoted much earlier.

8. The present application is, therefore, devoid of merit and is dismissed accordingly leaving the parties to bear their own costs.

S. R. Adige
(S. R. Adige)
Member (A)

J. P. Sharma
7.4.93
(J. P. Sharma)
Member (J)