

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O. A. NO/350/0 391 OF 2016

Shri Gunadhar Santra son of Late Pulin Behari Santra, aged about 63 years, worked as Yoga Teacher, K. V. Duliajan, Assam under Krindriya Vidyalaya Sangathan, since retired on 31.3.2013 from K. V. Dulyajan, Assam Pin - 786602, since residing at 30/5, Asutosh Mukherjee Lane, P.O. Salkia, P.S. Golabari, Dist. Howrah, Pin - 711 106, West Bengal.

... Applicant

- Versus -

1. Union of India, service through the Chairman, Kendriya Vidyalaya Sangathan, Shastri Bhavan, New Delhi - 110115.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110016.
3. The Dy. Commissioner (Per.), Kendriya Vidyalaya Sangathan, Tinsukia Region, P.O. Duliajan, Dist. Dibrugarh, Assam, Pin - 786602.

4. The Principal, Kendriya Vidyalaya, Duliajan, P.O.
Duliajan, Dist. Dibrugarh, Assam, Pin - 786602.

... Respondents

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA**

No.O.A.350/391/2016

Date of order : 5-2-2016

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**GUNADHAR SANTRA
VS.
UNION OF INDIA & OTHERS
(Kendriya Vidyalaya Sangathan)**

For the applicant : Mr. J.R. Das, counsel

For the Respondents : Mr. R.N. Bag, counsel

ORDER

Bidisha Banerjee, Judicial Member

The applicant, a Yoga Teacher of Kendriya Vidyalaya Sangathan has preferred this O.A. to seek the following reliefs:-

"i) An order/directions directing the respondents to make suitable amendment/correction in office order/letters dated 30.1.2012, 22.2.2012 and 20.12.2012 to allow the applicant with revision of pay scale to the extent of Rs.6500-10500/- w.e.f. 25.9.1981 at entry level, Senior scale to the scale of Rs.7450-11500/- w.e.f. 25.9.1993 after 12 years and then selection grade @ Rs.9300-34800/- with GP Rs.4800/- w.e.f. 25.9.2005/1.1.2006 and 3rd MACP w.e.f. 25.09.2011 at still higher grade w.e.f.

25.9.2011 on completion of 30 years following appointment on 25.9.1981 as per rules;

- ii) An order/direction directing the respondents to make a total review of his career prospects and make suitable review/correction of his pay and allowances allowed throughout his career vis-à-vis allowing of suitable correct grade and pay from time to time as stated hereinabove in conformity to the KVS guidelines as also 6th CPC benefits since due;
- iii) An order/direction directing the respondents to allow the applicant the benefit of PB-2 Rs.9300-34800/- with grade pay @ Rs.4800/- w.e.f. 25.9.2005/1.1.2006 after completion of 24 years following his appointment and benefit of 3rd MACP on completion of 30 years following 25.9.1981 as per 6th CPC guidelines, since deprived;
- iv) An order/direction directing the respondents to re-fix/re-calculate his pension and pensionary benefits following upward revision of his pay and allowances and fix/calculate pension and pensionary benefits on such enhanced basic pay on the date of retirement and pay the arrears of difference of pay and allowances as also pension and pensionary benefits with due interest thereon as per rule in the interest of justice;
- v) An order directing the respondents to place all relevant records before the Hon'ble Bench for conscionable justice;
- vi) Costs;
- vii) Any other order or further order/orders and/or direction/directions as to this Hon'ble Tribunal seem fit and proper."

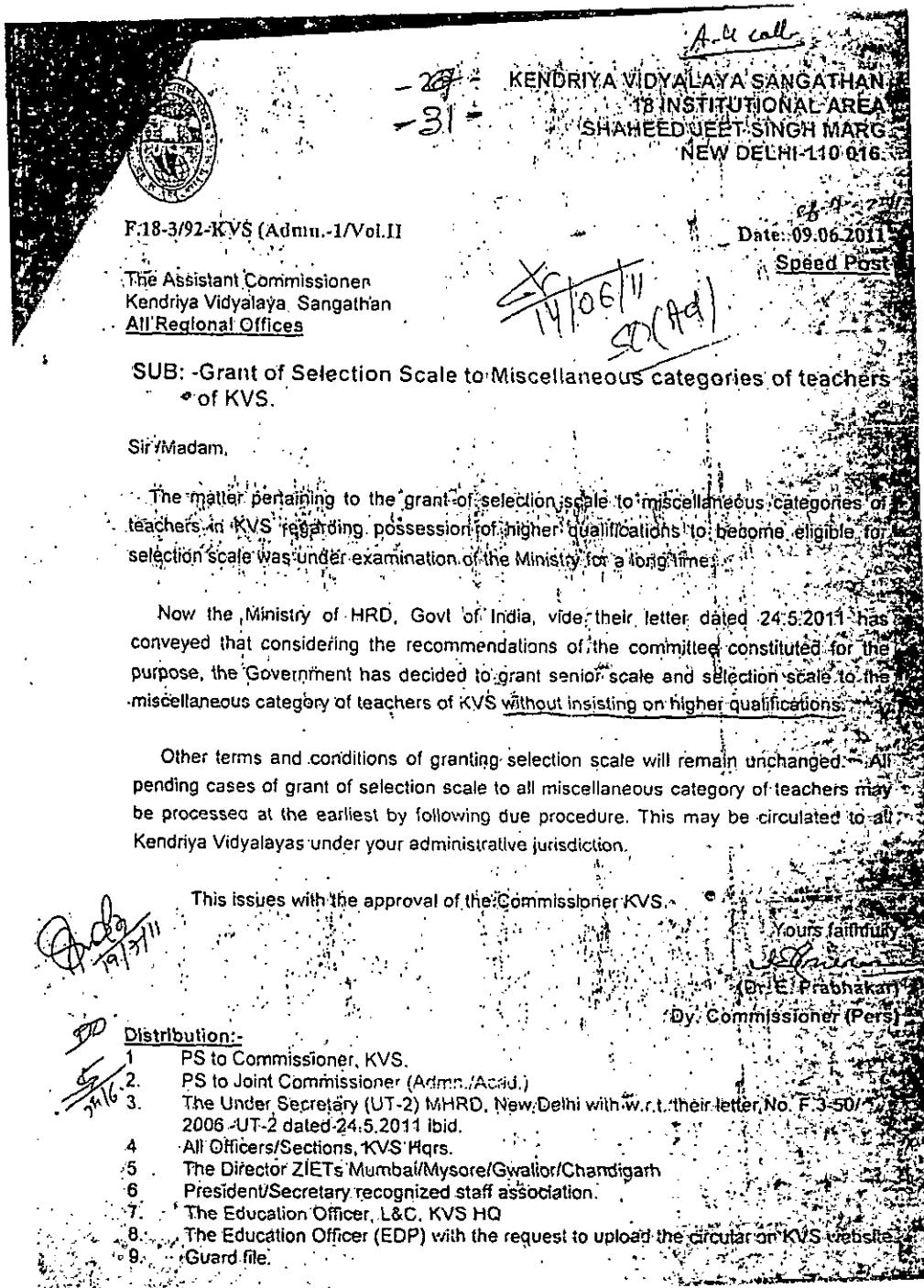
2. Heard Id. counsels.



3. At hearing Id. counsel for the applicant would draw our attention to an office order dated 30.01.2012 which is extracted hereunder:-

KENDRIYA VIDYALAYA SANGATHAN REGIONAL OFFICE, SILCHAR (Ministry of HRD, Department of Education Govt. of India) Captain N.M. Gupta Samiti SILCHAR, ASSAM-786007 WebSite: www.kvsrosilchar.com										
No. R/29058/01/2011/KVS/(SR)/			Date: 30.01.2012							
OFFICE ORDER										
<p>On the recommendation of Departmental Promotion Committee in its meeting held on 24/01/2012 following teaching staff whose particulars are given below are hereby appointed to the Senior Scale of pay as mentioned against each name.</p>										
Sl. No.	Name of the teacher	Designation	Name of KV	Date of appt. In ordinary scale	Date of grant of senior scale					
01.	Mrs. Deepika Pataki	PGT (Hindi)	Namrup	24.03.1990	24.03.2010					
02.	Sh. K. Bipin Ghanda	TGT (P&HE)	Masimpur	19.12.1998	22.03.2011					
03.	Shri D. Chakraborty	TGT (AE)	ONGC-Agarpara	04.01.1993	04.01.2011					
04.	Mr. Bhaskar Deka	TGT (WE)	Kaitanganj	18.12.1998	18.12.2011					
05.	Mrs. Tapasi Das	TGT (AE)	Sachar	18.07.1995	04.02.2009					
06.	Shri M.U. Wanikar	TGT (WE)	Lohitak	05.01.1998	05.01.2010					
07.	Mrs. J. Kharkongoi	Librarian	ONGC-Agarpara	31.07.1995	16.02.2008					
08.	Shri G. Santra	Yoga Tr.	Duliajan	25.09.1981	09.06.2011					
<p>(08 Cases only)</p> <p>Since E.O.T. on Private affairs</p> <p>Sanctioned Sr. Scale from the date of completion of In-service course for the prescribed period</p> <p>Senior Scale sanctioned from the date of issue KVS/(HO) circular</p> <p>The case for grant of Senior Scale to Shri S. L. Mehara, TGT(WE), KV, Kailashnagar could not be considered by the DPC since he has not undergone prescribed period of In-service Course prior to six years from the date of eligibility of Senior Scale</p>										
Sl. No	Post	Senior Scale								
01	PGT	PB-3, 15600-39100 + GP 5400/-								
02	TGT/Librarian	PB-2, 9300-34800 + GP 4600/-								
03	Yoga Teacher	PB-2, 9300-34800 + GP 4200/-								
<p>This order is subject to the condition that no disciplinary/vigilance case is pending against any of the above mentioned teachers and they are not under currency of any penalty.</p> <p style="text-align: right;">J.M. RAWAT DEPUTY COMMISSIONER</p> <p style="text-align: right;">(Signature)</p> <table border="1"> <tr> <td>1. Shri D.K. Lawana</td> <td>2. Pandigram</td> <td>3. TGT</td> <td>4. Sarukh</td> <td>5. 14.02.2010</td> </tr> </table>						1. Shri D.K. Lawana	2. Pandigram	3. TGT	4. Sarukh	5. 14.02.2010
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4. Ld. counsel for the applicant would invite our attention to Sl. No.5 and 7 of the said list where benefit of senior scale has been granted from 04.02.2009 and 16.02.2008 respectively. Ld. could would also place a circular dated 09.06.2011 as contained in Annexure A/4 which reads as under:-



Pursuant to the aforesaid, ld. counsel would strenuously urge that the authorities ought to have granted senior scale to the applicant from the date he completed 12 years of service and selection grade upon completion of 24 years of service. Ld. counsel would submit that the date of entry of the applicant being 25.09.1981 as evident from the office order dated 30.01.2012, his entitlement to senior scale would fall on his date of eligibility i.e. on 24.09.1993 and that of selection grade on 24.09.2005, instead, the authorities have deprived him of the benefits and granted senior scale from 09.06.2011 which is without any rhyme or reason or basis and, therefore, in arbitrary exercise of power.

5. Ld. counsel for the respondents would submit that the applicant was granted the benefit of circular dated 09.06.2011 prospectively since it did not have any retrospective application and at the material time i.e. on 25.09.1993 the applicant was not entitled to senior scale as he did not come under the prevailing rule. However, failing to clarify or place any such rule which would debar the applicant from earning the benefit of senior scale from 1993.



6. Ld. counsel for the applicant admitted that the applicant acquired the requisite training in the year 2000 and therefore, he should be conferred the benefit of senior scale at least from the date he acquired training or in terms of the circular dated 09.06.2011 he ought to have been granted senior scale without insisting on higher qualification.

7. We considered the rival contentions and perused the records.

8. Having noted that the circular dated 09.06.2011 has been given a retrospective effect while granting benefit to at least two persons as in Sl.No.5 and 7 of the Office Order dated 30.01.2012, the contention of the respondents that the circular had no retrospective effect fails to hold any water.

9. In view of such, we direct the authority that the applicant be granted the benefit of senior scale either from the date it fell ~~8~~
falls due i.e. in the year 1993 or from the date the applicant acquired training for the same, if a training was mandatory for the purpose. Let appropriate orders be issued within a period of 3 months. Based on such revision, his right to get selection grade upon completion of 24 years of service be granted, or revised if the same has already been granted from a later date.

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10. The O.A. is accordingly disposed of. No order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member
sb

(Bidisha Banerjee)
Judicial Member

