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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 471 of 2007

Cuttack, this the 11th day of March, 2011

Dr.Chittaranjan Tripathy Applicant

-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? *Yes*
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? *Yes*.

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(A.K.PATNAIK)
Member(Judl)

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(C. R. MOHAPATRA)
Member (Admn.)

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CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Dr.Chittaranjan Tripathy, 43 years, Son of J.N.Tripathy, a permanent resident of Nilakanthnagar, Berhampur, Ganjam at present serving as Post Graduate Teacher in Kendriya Vidyalaya Sangathan, Sambalpur.

.....Applicant

By legal practitioner: Mr.Aswini Kumar Mishra, Senior Counsel.

With

M/s.J.Sengupta, D.K.Panda, G.Sinha,
A.Mishra, Counsel.

-Versus-

1. Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Sahidjeet Singh Marg, New Delhi.
2. Deputy Commissioner, Admn. Kendriya Vidyalaya Sangathan.
3. Assistant Commissioner, Academic Kendriya Vidyalaya Sangathan.

Sl.No.2 and Sl.No.3 are functioning in the office of
Commissioner, Kendriya Vidyalaya Sangathan, 18
Institutional Area, Sahidjeet Singh Marg, New Delhi.

4. Principal, Kendriya Vidyalaya, At/Po.Bareipalli, Dist. Sambalpur.

....Respondents

By legal practitioner: Mr.Ashok Mohanty, Sr. Counsel.

With

M/s. H.Tripathy, P.K.Mohanty,
B.Panigrahi, P.K.Sahu,
Counsel.

ORDER

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

The order dated 06/14-11-07 in Annexure-A/12 reverting the Applicant from the post of PGT (Chemistry) to the post of TGT (Maths.) is under challenge in this Original Application filed by the Applicant under section 19 of the A.T. Act, 1985 with prayer to quash Annexure-

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A/12, the Memorandum dated 17.9.2007 in Annexure-A/10 which was issued to the applicant asking him to show cause as to why he should not be reverted from the post of PGT to TGT and to direct that the applicant is validly continuing in the post of PGT Chemistry.

2. Respondents, by filing counter and additional counter contest the case of the Applicant. Despite receipt of counter and adequate opportunity granted by this Tribunal, no rejoinder has been filed by the Applicant, admitting or rebutting the stand of the Respondents. However, by filing written note of submission, Applicant has tried to strengthen his stand taken in the OA.

3. Heard Mr. Jayadev Sengupta, Learned Counsel for the Applicant and Mr. H.K.Tripathy, Learned Counsel appearing for the Respondents-KVS and perused the materials placed on record.

4. The contentions of the Respondents is that Appointment, promotion and Seniority Rules, 1971 framed by the KVS governs the field for filling up of the posts of PGT in which it is provided that 50% of the post of PGT is to be filled up by promotion on the basis of merit selection from amongst the eligible TGT having three years of regular service as TGT and having 50% marks in Master's Degree in the concerned subject. It has also been provided that the zone of consideration of the candidates shall be as per the Government of India instruction applicable to other employees of the Government. For filling up of the vacancies in the grade of PGT (Chemistry) of the years 2003-

04, vide letter dated 22-11-2002, particulars of all eligible TGT (Math)/(Biology) under UR category, whose names find place in the All India Seniority List upto Srl.No. 1780 were called for consideration. Accordingly, the RO Office, Bhubaneswar forwarded the name of the Applicant inadvertently mentioning his position in the All India Seniority List of TGT as '1706' and his date of joining as '19.08.1985' though his actual date of joining in the TGT was "19-08-1995". On the basis of such information, the case of the applicant was placed before the DPC held on 15.10.2003, along with others for consideration for promotion to PGT (Chemistry). The DPC convened on 15-10-2003, recommended the case of the applicant for promotion to PGT (Chemistry) on the basis of such wrong information placed before the DPC. According to the Respondents' Counsel the mistake occurred due to the reason that in the All India Seniority List of PGT upto 01-01-2003 the name of the Applicant figured at '1574' and in the all India Seniority List published upto 01-01-2004 the name of Applicant appeared at Sl.Nos.1530 & 1549'. But from Sl.No.926 to 2330 (at page 242) got misprinted as 626 to 2030. Hence the name of the applicant was shown at '1530 and 1549' which should have been Sl.Nos.1830 and 1849. However, this mistake having come to the notice of the Department at a later date, show cause notice was issued to the Applicant on 17.9.2007. In response to the said notice, applicant submitted his reply on 27.09.2007. On consideration of his reply with reference to the records, since it was proved that the



applicant would not have come within the purview of consideration against the vacancy of the year 2003-2004 but for the misquoting of the position of the applicant in the seniority list he was considered and promoted, on the basis of the recommendation of the review DPC, the order of reversion of the applicant was passed in Annexure-12 dated 06/14-11-2007. Further contention of the Respondents' counsel is that to err is human; to correct an error is also human. It is a large organization where several employees are working and large volume of work is being transacted. In such a situation, human error at times cannot be avoided. Nobody could expect an ideal situation without any error or mistake in the matter of administration. Due to inadvertence or otherwise a mistake has been committed, discretion is always available with the authority to rectify the mistake. Duty is cast not only on the administrators but on the beneficiary of the mistake to correct the error. The beneficiary is also part of the administration like the person who has committed the mistake. Hence, the Applicant should not have raised any grievance on his order of reversion which was by way of correcting an inadvertent error or mistake in the matter of promotion.

On the other hand, it is the contention of the Learned Counsel for the Applicant that applicant initially joined as PRT in the KV. Subsequently he was promoted to TGT (Math.) in which post he joined on 19-08-1995. On completion of two years probation, vide order under Annexure-A/2 dated 23/24-11-1998, he was confirmed in the post



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of TGT (Maths) on 19-08-1997. Accordingly, his name was shown at Sl.No. 1706, in the seniority list of TGT (PCM)/(Maths) published as on 1998. While the matter stood thus, notification was issued for filling up of the vacancies of the years 2002-2003 in PGT in different subjects. In the notification it was specifically pointed out that persons who were appointed as TGT upto 31.12.1995 were to be considered for promotion to the post of PGT (Chemistry). Again on 20.11.2002 another notification was issued by the Assistant Commissioner, Bhubaneswar Region to furnish the information for promotion of the TGT to the post of PGT in different subjects for the years 2003-2004(Annexure-A/4). In the said notification for the post of PGT (Chemistry) it was mentioned that persons belonging to the PCM stream whose names appear in the seniority list upto 1780 were to be considered. Accordingly, vide letter under Annexure-A/6 dated 07-11-2003, the name of the applicant was recommended by the KV, Anugul to the Assistant Commissioner, KV, Bhubaneswar. Thereafter, on the recommendation of the DPC as against the vacancy of PGT (Chemistry) for the year 2003-2004, vide order under Annexure-A/7 he was promoted to the post of PGT (Chemistry) in which post he joined on 02-04-2004. It was contended that by the order dated 15.12.2003 49 TGTs under UR category were promoted to the post of PGT (Chemistry) in which the position of the applicant was shown at Sl.No.2 wrongly taking him as a TGT of 1985. Otherwise, he would not

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have secured the position within the list of 49 promotees as the last candidate's date of joining in TGT as 10.12.1993

5. Based on the reply of the counter it was further pointed out by the Learned Counsel for the Applicant that the zone of consideration was upto seniority No. 1780. The name of applicant was at Sl.No.1706 (Annexure-A/3) in the seniority list of TGT. But as his date of appointment was wrongly mentioned by the RO office he had to face the order of reversion otherwise there was no wrong in so far as considering the case of the applicant whose Sl. No. was 1706 ; especially when Smt.P.Mohapatra whose date of appointment to TGT (Math.) as 15.09.1995 and placed in the gradation list at Sl.No.1700, Smt.P.Sahoo,TGT (Math) whose date of appointment in the grade of TGT as 12.12.1995 and placed at Sl.No.1738 were considered and promoted. Further contention of the Learned Counsel for the Applicant is that meanwhile Smt.Lovely John and Shri R.P.Swarnkar and many others (as stated in paragraph 20 of the notes of submitted) who are junior to the Applicant have been promoted to the post of PGT (Chemistry). In the circumstances, Learned Counsel for the Applicant has insisted for grant of the relief claimed in this OA.

6. After giving in-depth consideration to various points raised by Learned Counsel for both sides, we have perused the materials placed on record. We have also perused the minutes of the DPC in which the applicant along with others were considered. The reason of reversion of



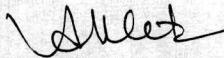
the applicant was due to mistake in pointing out the Sl.No. of the applicant in the gradation list as upto 01-01-2003 the name of the Applicant figured at '1574' and in the all India Seniority List published upto 01-01-2004 the name of Applicant appeared at Sl.Nos.1530 & 1549'. But from Sl.No.926 to 2330 (at page 242) got misprinted as 626 to 2030. Hence the name of the applicant was shown at '1530 and 1549 which should have been Sl.Nos.1830 and 1849. However, this mistake having come to the notice of the Department at a later date, show cause notice was issued to the Applicant on 17.9.2007. In response to the said notice, applicant submitted his reply on 27.09.2007 and on consideration of the reply order of reversion was issued to the Applicant. Hence, we accept the proposition of the Learned Counsel for the Respondents that to err is human; to correct an error is also human. It is a large organization where several employees are working and large volume of work is being transacted. In such a situation, human error at times cannot be avoided. Nobody could expect an ideal situation without any error or mistake in the matter of administration. Due to inadvertence or otherwise a mistake has been committed discretion is always available with the authority to correct. Hence, the Applicant should not have raised any grievance on his order of reversion which was by way of correcting an inadvertent error or mistake in the matter of promotion. The stand of the Applicant that due to wrong in putting the date of joining the applicant was reverted is based on

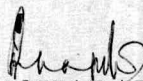


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conjecture and surmises. Hence we find no substance in this submission of the applicant.

7. In the result, this OA stands dismissed by leaving the parties to bear their own costs.


(A.K. PATNAIK)
Member(Judl)


(C. R. MOHAPATRA)
Member (Admn.)

