

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR**

Original Application No. 54 of 2005

Friday, this the 2nd day of March, 2007

CORAM:

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER**

Suchita Gupta,
W/o. Shri D.C. Gupta,
Post Graduate Teacher,
JNV, Tilwasani, District Jodhpur,
Resident of Tilwasani, District Jodhpur

Applicant.

(By Advocate Mr. Vijay Mehta)

versus

**Navodaya Vidhyalaya Samiti,
Indraprastha Estate, Indira Gandhi Stadium,
New Delhi – through its Commissioner.**

Deputy Director, Navodaya Vidhyalaya Samiti,
A-12, Shastri Nagar, Jaipur ...

Respondents.

(By Advocate Mr. M. Godara, Proxy Counsel for
Mr. Vinit Matur)

ORDER
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant has approached this Tribunal for stepping up of her pay at par with one Shri R.K. Sharma, PGT. The initial date of appointment of the applicant as per para 4.1 is 20.09.1993 and in so far as Shri R.K. Sharma was concerned, he was appointed as PGT on

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29.04.1995. At the time when Shri R.K. Sharma was so appointed, according to the applicant, he was drawing less pay than the applicant. In the wake of implementation of the Vth Central Pay Commission's recommendations when pay of the applicant was fixed in the revised pay scale as on 01.01.1996 and that of Shri R.K. Sharma as on the same date have been to be Rs. 6500/- Annexure A/3 statement submitted by the applicant refers. However, on account of different dates of increment, Shri R.K. Sharma, junior to the applicant, had been allowed to draw Rs. 6700/- w.e.f. 01.04.1996 while the pay of the applicant remained at Rs. 6500/- till 31.08.1996. Thus, for the period from 01.04.96 to 31.08.1996, the applicant happened to draw less pay than her junior Shri R.K. Sharma. When the applicant made a representation in this regard, the respondents have negatived her claim on the ground that both, the applicant and said Shri R.K. Sharma belong to different cadres as well as the different subjects.

2. The respondents have contested the O.A. According to them, the applicant was a direct recruit and Shri R.K. Sharma was a promotee and both of them have been PGTs for different subjects and as such they belong to different cadres. The rest of the facts of the case have not been disputed.

3. The applicant has filed a rejoinder reiterating the contentions as

contained in the O.A. and also filed a copy of the seniority list and comparative statement of the Senior PGTs. Learned counsel for the applicant submitted that the applicant was drawing less pay than that of Shri R.K. Sharma from 01.04.1996 onwards. Since there is provision of stepping up of pay of a senior at par with junior, the applicant is entitled to the same. In this regard, he has relied upon a decision of the Hon'ble High Court of Judicature for Rajasthan at Jodhpur, in the case of Rikhab Raj Kumbhat vs. State of Rajasthan & Others reported in 2006 (3) RDD 1454 (Raj.) (DB), in which the facts are stated to be identical and the relief has been granted to the Writ petitioner.

4. Per contra, learned counsel for the respondents submits that as per the policy in Navodaya Vidyalaya, teachers in different subjects are treated as belong to different cadres and as such the applicant and said Shri R.K. Sharma, do not belong the same cadre. However, he could not produce any documentary evidence to substantiate the said contention. He has also drawn our attention to paragraph B (iii) of Annexure R/1 wherein it has been stated that stepping up of pay will not be admissible where a senior direct recruitee is drawing less pay than a junior promotee whose pay has been fixed with reference to the pay drawn in the lower post. He has also referred to paragraph-A (i) and (vi) of Annexure R/1, which reads as under:

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"(A) The stepping up of pay of seniors is permissible only in cases where the anomaly in pay arises, if, a senior employee drawing equal or more pay than his junior in the lowest post and promoted earlier, starts drawing less pay than such juniors promoted later on regular basis. With a view to remove such genuine anomalies arising out of the application of the rules/orders, the stepping up of pay can be done subject to the fulfilment of following conditions:

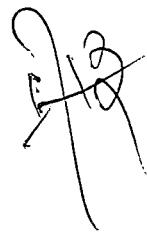


- (i) Both the senior and the junior employees should belong to the same cadre and the posts to which they have been promoted or appointed should be identical and in the same cadre. Here, the same cadre means the strength of a service or sanction of a post by the Regional Office by which the recruitment is done.
- (ii) to (v)
- (vi) Advancement of date of next increment (DNI) of senior is admissible only if he was drawing more pay than the junior in the pre-revised scale and his pay in the revised scale is fixed at the same stage as that of his junior.

5. Arguments were heard and documents perused. In view of the fact that no documentary evidence has been produced to substantiate the version that different subjects would constitute different cadres in Navodaya Vidyalaya, we cannot accept the contention of the

respondents. Normally, in Educational Institutions, cadre is bifurcated as teaching and non-teaching cadres and not teaching in a particular discipline/subject and another. If the respondents have any such distinction between two different subjects to constitute two different cadres, it is for them to substantiate the same by documentary evidence. In so far as the fact that the applicant is a direct recruitee while Shri R.K. Sharma is a promotee, in that case also the provisions contained in B(iii) of Annexure R/1 above does not apply since at the time of promotion of Shri R.K. Sharma, his pay was less than that of the applicant as averred by the applicant in respect of which there is no rebuttal. Further, the pay of Shri R.K. Sharma would not be more than that of the applicant since as on 01.01.1996 the pay of both the individuals was only Rs. 6500/-. The entire anomaly, thus, arose on account of different dates of increments. Thus, as on 01.01.1996 when senior and junior have been drawing the same pay and by virtue of different dates of increment, the junior happens to draw more than the senior, the senior is entitled to the stepping up of pay.

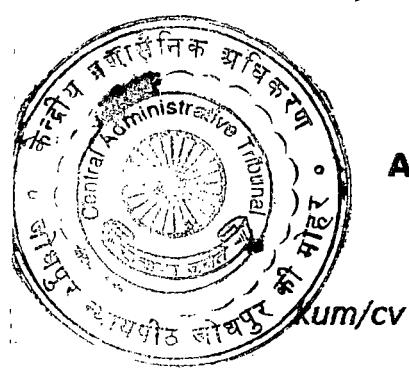
6. In view of the above, the Original Application succeeds. It is held that the applicant is entitled to the stepping up of the pay at par with Shri R.K. Sharma with effect from 01.04.1996 onwards and the consequential benefits shall also flow therefrom. The respondents are directed to fix the pay of the applicant accordingly and pay the



arrears of pay and allowances within a period of three months from the date of communication of this order. In case, if there be any different pay scale for different subjects whereby for different subjects there will be different cadre, the respondents are at liberty to move a Review Application as per rules.

7. Under the above circumstances, there shall be no order as to costs.

(Dated, the 2nd March, 2007)



Tarsem Lal
TARSEM LAL
ADMINISTRATIVE MEMBER

DR. K B S Rajan
DR. K B S RAJAN
JUDICIAL MEMBER

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~~Signature~~

Part II and III destroyed
in my presence on 26/3/14
under the supervision of
section officer () as per
order dated 26/3/14.....

Section officer (Record)