CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 290/00070/2014 and
Original Application No.290/00071/2014

Jodhpur, this the 17th day of November, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member

OA No.290/00070/2014

Mangi Lal Raw s/o Shri Sukhdev Ji Raw, By caste Raw, aged 53 years, resident of Sadguru Kripa Kutir, 39, Kishan Keshri Nagar, Near Sant Ashram, Banar Road, Jodhpur (Rajasthan), presently working under respondent No.3

.......Applicant

By Advocate: Mr. M.S.Godara

Versus

1. Commissioner Kendriya Vidyalaya Sangathan, Head Quarter, 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110 016.

2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015 (Rajasthan)

3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015 (Rajasthan).

4. Principal, Kendriya Vidyalaya No.1 (Army), Jodhpur, Army Area, Banar Road, Jodhpur (Raj.)

.......Respondents

By Advocate : Mr. Avinash Acharya

OA No.290/00071/2014

N.R.Ganchi s/o Shri Mansa Ram, aged 40 years, by caste Ganchi, resident of House No.39, Kishan Keshri Nagar, Near Sant Ashram, Banar Road, Jodhpur (Rajasthan), presently working under respondent No.5

.......Applicant

By Advocate: Mr. M.S.Godara

Versus

1. Commissioner Kendriya Vidyalaya Sangathan, Head Quarter, 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110 016.

2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015 (Rajasthan)

3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015 (Rajasthan).

4. Principal, Kendriya Vidyalaya No.1 (Army), Jodhpur, Army Area, Banar Road, Jodhpur (Raj.)

5. Deputy Commissioner, Regional Office, Kendriya Vidyalaya Sangathan, Sirsa (Haryana).

.....Respondents

By Advocate : Mr. Avinash Acharya

ORDER

Per Justice K.C. Joshi, Member (J)

Since both the OAs involve similar question of facts and law, therefore, they are being decided by this common order.

2. Both the OAs, have been filed against the order dated 15.1.2014 (Ann.A/1) and 9.3.2011 (Ann.A/2) whereby the respondent No.3 has ordered for recovery on the basis of letter (Ann.A/3).

3. In OA No.290/00070/14, applicant was appointed as TGT (English) on 23.11.2001 in Kendriya Vidyalaya Sangathan in the pay scale of Rs. 5500-9000. This pay scale was applicable to all the TGTs irrespective of subject. The pay scale of TGT after 6th Pay Commission was revised to Rs. 9300-34800 plus Rs. 4600 grade pay which was made applicable to all the TGTs irrespective of subject. The pay of the applicant after 6th Pay Commission was fixed by stepping up the pay at par with the junior vide order dated 14.9.2009 which comes to Rs. 17140/- per month as on 1.1.2006. After fixation pursuant to 6th Pay Commission the applicant learnt that identical employees of the same cadre are paid more than the applicant, thus he has filed representation but instead of redressing the grievance, the respondents reduced the pay of the applicant and fixed the basic pay at Rs. 11540/- with grade pay of Rs. 4600/- per month i.e. total Rs. 16140/- and forwarded the case to the competent authority for recovering the excess amount vide letter dated 30.5.2011.

Aggrieved with the action of the respondents, the applicant filed OA No.179/2011 which was disposed of on 30.10.2013 with direction to the respondents to decide representation and if any grievance remains, he can approach this Tribunal. Therefore, after disposal of the representation, the applicant has approached this Tribunal.

4. In OA No.290/00071/14, applicant was appointed as TGT (Science) on 29.1.2003 in Kendriya Vidyalaya Sangathan in the pay scale of Rs. 5500-9000. This pay scale was applicable to all the TGTs irrespective of subject. The pay scale of TGT after 6th Pay Commission was revised to Rs. 9300-34800 plus Rs. 4600 grade pay which was made applicable to all the TGTs irrespective of subject. The pay of the applicant after 6th Pay Commission was fixed by stepping up the pay at par with the junior vide order dated 14.9.2009 which comes to Rs. 17140/- per months as on 1.1.2006. After fixation pursuant to 6th Pay Commission the applicant learnt that identical employees of the same cadre are paid more than the applicant, thus he has filed representation but instead of redressing the grievance the respondents reduced the pay of the applicant and fixed the basic pay at Rs. 11210/- with grade pay of Rs. 4600/- per month i.e. total Rs. 15810/- and forwarded the case to the competent authority for recovering the excess amount vide letter dated 23.5.2011. Aggrieved with the action of the respondents, the applicant filed OA No.180/2011 which was disposed of on 30.10.2013 with direction to the respondents to decide representation and if any grievance remains, he can approach this Tribunal. Aggrieved of the disposal of the representation, the applicant has approached this Tribunal.

5. By way of reply to OA No.290/00070/14, the respondents have submitted that in the classification issued by KVS (HQ), New Delhi vide letter dated 10/24.6.2004 and letter dated 17/19.12.2012 the seniority number of TGTs is subject wise, hence stepping up of pay may be done subject wise only not as one cadre of TGTs, as the seniority number of TGTs is subject wise. Therefore, pay fixation of the applicant as well as stepping up of pay made subject wise by

answering respondents is well sustainable in the eyes of law and it is well within the purview of the prescribed rules and procedure and uniformly applicable in all such cases in KVS. The respondents have further submitted that pay of senior direct recruit drawing less pay than junior direct recruit appointed on or after 1.1.2006 were revised and stepped up at par with junior direct recruit vide letter dated 9.3.2011 and 6.5.2011 including the applicant and now none of senior direct recruit of TGT (English) drawing less pay from the junior direct recruit. Accordingly, Principal, KV No.1 Army, Jodhpur vide letter dated 30.5.2011 communicated the recovery statement of the excess pay and allowances by the applicant on account of re-fixation of pay w.e.f. 1.1.2006.

6. In reply to OA No.290/00071/2014 the respondents have taken similar stand as taken in OA No.290/00070/2014.

7. Heard both the parties. Counsel for the applicants contended that bunching the group of TGTs for granting pay is illegal and the persons appointed in the year 2001 cannot be paid at par with persons joining in the year 2006. Counsel for the applicants further submitted that stepping up was done after scrutinizing the provisions and grant of stepping up was not at the instance of the applicants, but it was done by the office itself. Therefore, making recovery is bad in law.

8. Per contra, the counsel for the respondents opposed the contentions raised by the applicants and contended that maintaining seniority subject wise has a reasonable reason and logic underlying, keeping in view the future prospects of promotion, since a teacher of a particular subject will be promoted in the same stream and therefore, the grievance raised by the applicants for equating their cases to that of a junior TGT of a different subject for the purpose of pay fixation and stepping up of pay is absolutely baseless.

9. We have considered the rival contentions of both the counsels. The counsel for the applicants relied upon the decision of this Tribunal dated 9.7.2014 passed in OA no.459/2012 whereby a similar controversy was decided and fixation of pay even lower to junior person in the same subject was held illegal and the recovery

order was quashed and the pay fixation made by the respondent department earlier was held to be correct. Since the present controversy is squarely covered by the decision dated 9.7.2014, therefore, we quash the order Annexure A/1, A/2 and A/3 in both the OAs, qua the applicants and respondent department is directed not to recover any amount from the applicants as shown in Annexure A/3.

10. Both the OAs stand disposed of accordingly with no order as to costs.

[Meenakshi Hooja]
Administrative Member

[Justice K.C.Joshi]
Judicial Member

COMPARED & CHECKED

TSS

CERTIFIED TRUE COPY
Dated....21/11/2014

Section Officer (Judl.)
Central Administrative Tribunal
Jodhpur Bench, Jodhpur