

**Central Administrative Tribunal
Ernakulam Bench**

OA/180/00568/2013

Wednesday this the 7th day of June, 2017

CORAM

**HON'BLE MR.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs. P.GOPINATH, ADMINISTRATIVE MEMBER**

1. C.T. Muraleedharan Pilai, aged 55 years
S/o Late N. Thankappan Pillai
Office Superintendent,
Jawahar Navodaya Vidyalaya,
ETC Post, Kottarakara, Kollam District
2. Murali S, aged 53 years
S/o Late K. Sukumaran
Upper Division Clerk,
Jawahar Navodaya Vidyalaya P.O
Chennithala, Alappuzha District,
PIN -690105
3. T. Baburajan, aged 50 years
S/o Late Ravunni
Upper Division Clerk,
Jawahar Navodaya Vidyalaya
ETC -Post, Kottarakara, Kollam District
4. Ambujakshan T., aged 48 years
S/o Late E. Raghavan
Store Keeper, Jawahar Navodaya Vidyalaya,
ETC Post, Kottarakara, Kollam District
5. Narayana Prasad Sharma, aged 45 years,
S/o Sri Jayaswar Sharma
Chowkidar-cum-Sweeper,
Jawahar Navodaya Vidyalaya
Vadavathur P.O.

6. Rajeev E.R., aged 44 years
S/o Sri Raveendran M.N.
Chowkidar, Jawahar Navodaya
Vidyalaya, Vechoochira, P.O -Mannadisala,
Pathanamthitta District.
7. Chandrasekharan Nair, aged 56 years
S/o Sri V. Parameswara Kurup,
Driver, Jawahar Navodaya Vidyalaya Vechoochira,
P.O. Mannadisala, Pathanamthitta District
8. P.C. Binu, aged 45 years
S/o Late P.V. Chacko
Lower Division Clerk,
Jawahar Navodaya Vidyalaya Vechoochira,
P.O Mannadisala, Pathanamthitta District
9. Baiju T. Joseph, aged 37 years
S/o Joseph T.V.
Electrician cum Plumber,
Jawahar Navodaya Vidyalaya
Nriamangalam, Ernakulam District

Applicants

(By Advocate: Mr. Vinod Madhavan)
Versus

1. Union of India represented by
Secretary to Ministry of Human Resources Development
Department of School Education & Literacy
Shastri Bhavan, New Delhi-110 001.
2. The Secretary
Ministry of Finance
Department of Expenditure
North Block, New Delhi- 110 001.
3. Navodaya Vidyalaya Samiti
Represented by Commissioner
B-15, Sector-62, Institutional Area
Noida - U.P.-201 309.

4. The Deputy Commissioner
 Navodaya Vidyalaya Samiti
 Hyderabad Region
 1-1-10/3, S.P.Road
 Secundrabad, Andhra Pradesh-500 003.

Respondents

(By Advocate: Mr.Millu Dandapani for R.384.
 Mr.K.C.Murali leecharau for R.142)

This OA having been heard on 24th May, 2017, the Tribunal delivered the following order on 07.06.2017.

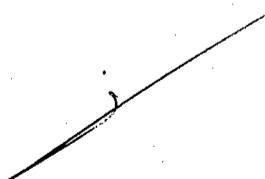
ORDER

Per Justice N.K.Balakrishnan, Judicial Member

Nine applicants in this case have approached this Tribunal to declare that they are entitled for residential special allowance at the rate of 10% of the pay band and grade pay and for issuance of directions to that effect and to disburse monetary benefits with effect from 1.1.2006 or in the alternative direct the respondents to fix the working hours of the applicants by introducing 5 days week or 6 days week with off on second Saturday in accordance with DoPT guidelines. They also seek directions to be issued to the respondents to evolve a scheme for grant of higher pay scales to the applicants taking into consideration the additional efforts put in by them and amend their pay scales/pay band in Annexure A9.

2. The gist of the case stated by the applicants is as under:-

Applicants are non-teaching staff in various Jawahar Navodaya

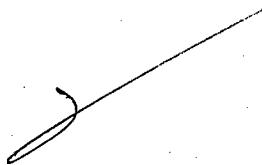


4.

Vidyalayas. They are deprived of residential special allowance at the rate of 10% of the pay band and grade pay and grant of higher pay scales in tune with the additional efforts put in by them. The special allowance is limited to teachers and librarians only. The non-teaching staff are also identically placed with residential staff. Staff members have to compulsorily stay in the campus. The Commissioner has observed that non-teaching staff at Samiti are working for more than 16 hours a day. Other educational institutions like Kendriya Vidyalaya, Tibetan Schools, U.T. Administration Schools etc., enjoy holidays on second Saturdays and Sundays and other national holidays. JNVs are made to work on Saturdays and Sundays. Recommendations made in Annexure A8 have not been acceded to by the respondents. There is no justification for depriving the applicants 10% residential special allowance which is granted to the teachers and librarians.

3. The claim is opposed by the respondents contending as follows:

The demands made in the present application were raised in earlier OAs No.389/2009, 339/2009 and 441 of 2009 which were filed before this Tribunal. It was observed by the Tribunal that appropriate action was taken by the respondents and hence the OAs and also the CP(C)s were closed. The Govt. of India had earlier considered the demands for grant of 10% special allowance to the non-teaching staff of JNVs but they did



not agree on the ground that some benefits are not being given to non-teaching staff of Oak Grove School run by the Ministry of Railways and Sainik Schools run by the Ministry of Defence. The Govt. of India had also examined the pay and allowances being paid to non-teaching staff including mess employees and thereafter rejected their demands. The staff members are required to stay in the campus compulsorily as the JNV is a residential institution. The working hours of the staff in JNVs is fixed from 9 am to 4 pm with half an hour lunch break from 1 pm to 1.30 pm on all days from Monday to Saturday vide Annexure R1. All the staff members including the non-teaching staff have to perform their duties as per the requirement of the Vidyalayas. The contention that they perform 11 to 16 hours of work continuously in a day is far from truth. Appointment to various posts are made as per the posts sanctioned by the government. In the residential system the requisite work has to be done by the existing employees/staff. The contention that they are overburdened is not true. Certain post like mess helpers, cook etc are found to be over burdened. To alleviate their burden, employees on daily basis are engaged in the mess by the Vidyalayas concerned. The demand for grant of special allowance at the rate of 10% of basic to the non-teaching staff at par with the teaching staff was raised in OA 339/2009. That issue was already settled based on the letter dated 26.10.2012 of the

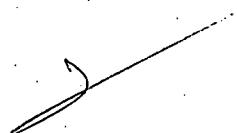
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Ministry of HRD. The contempt petition No.160/2012 was thus closed vide Annexure R2. Govt of India did not extend the benefit of special allowance to the non teaching staff of JNVs on the ground that the benefits are not given to non-teaching staff working in similar schools. No discrimination has been shown to non-teaching staff. There is no justifiable ground to get 10% special allowance. Similar contentions have been raised by respondents 3 & 4 also.

4. The point for consideration is whether the applicants who are non teaching staff are entitled to get residential special allowance at the rate of 10% of basic pay and grade pay?

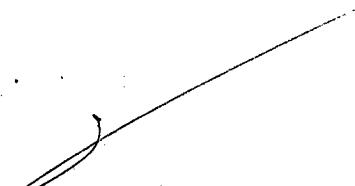
5. We have heard the learned counsel appearing for the parties and have also gone through the pleadings and documents.

6. The main plank of the plea advanced by the learned counsel for the applicants is that the applicants who are non teaching staff are discriminated against by denying residential special allowance at the rate of 10% which is given to the teaching staff of JNV. There is no dispute regarding the fact that the teachers are given the benefit. Annexure A1 is the order dated 26.06.2007. It says that JNV being a fully residential institution, the employees are required to stay in the vidyalaya campus. In addition to the normal duties, the employees are required to perform additional responsibilities attached with residential system. That is



mentioned in the order of appointment (issued to certain persons) by the Deputy Commissioner of Hyderabad. Annexure A2 is the letter dated 3.9.2012 issued by the Deputy Commissioner to the Principal indicating that so many complaints were received from JNV stating that some of the teachers and non-teaching staff are not staying in the campus though quarters have been officially allotted. Hence the Principal was directed to ensure that no staff is permitted to stay outside the campus except in the case of shortage of quarters. A3 is another letter dated 23.11.2011 which has also been pressed into service by the applicant in support of the contention that JNV being a residential school, the principals were given permission to assign duties to the employees at any time as per exigency of work.

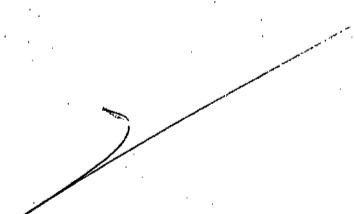
7. A4 is the reply dated 17.4.2009 given under the Right to Information Act. From the answers given to certain queries made by the applicants therein it is seen stated that JNVs are co-educational residential institutions where the students and staff are compulsorily required to stay in the Vidyalaya campus. It is also stated that there is a regular schedule of activities encompassing academic co-curricular activities aimed at holistic development of children. It is further stated that it is essential for the teachers to be in regular touch with students and monitor their activities; the terms of reference of work cannot be



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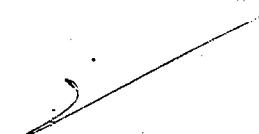
compared with day schools, as they have to act as local parents. The learned counsel for the respondents would submit that the answer given in Annexure A4 itself would make it clear that the teachers are to act as local parents and that their work cannot be compared with the work of staff members. The contention that mess workers/canteen attendants etc are to do much work is some thing which cannot be raised as a ground for getting special allowance. In the reply statement it was stated that the shortage of staff was taken into account and daily wages were provided to meet the requirements. Therefore that is not a reason to claim special allowance.

8. Annexure A6 letter dated 27.10.2010 given under RTI Act also contains the very same answer, as stated in Annexure A4. Annexure A7 is of no help in adjudicating the issue involved in this case. Annexure A8 which is a recommendatory letter sent by the Commissioner to the Secretary of 6th CPC has been relied upon by the learned counsel for the applicants to fortify his submission that the Commissioner had also opined that the grievance of the applicant is genuine. The opinion expressed by the Commissioner cannot be accepted at all since the Commissioner would be somehow or other trying to help persons like the applicants, who are his subordinates, the respondents contend. Whatever that be, the recommendation sent to the CPC did not yield any



result in favour of the applicant which would mean that the 6 CPC did not agree with the contention raised by the applicants that they should also be given the residential special allowance as has been granted to the teaching staff. The 6th CPC had taken note of the difference in the nature of the duties performed by the teaching and non-teaching staff and that is why the special residential allowance has been given to the teachers alone taking note of the nature of duties the teachers have to perform after the office hours; especially during night time.

9. As can be seen from Annexure R3(a), the working hours of JNV is from 9 am to 4 pm with half an hour lunch break from 1 pm to 1.30 pm on all days from Monday to Saturday. It is made specific that Saturday is not made holiday for JNV. Annexure R3(b) is the letter dated 6/5/1991 sent by the Deputy Director (Personnel) to the Deputy Directors of all regional offices of JNV Samiti. It is seen that the problems faced by the regional offices as well as the Navodaya Vidyalayas in the absence of any defined duties and responsibilities of the various posts in the Vidyalayas were appreciated by the Samity and it was decided, in consultation with the administration and finance and accounts wings of the Samity to list out the detailed duties and responsibilities of the various posts of non-teaching staff. It is stated therein that the duties and the responsibilities so formulated were also discussed during Deputy Directors' Conference



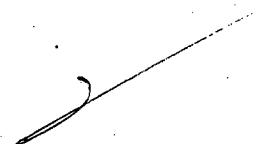
held on 20.4.1991. Thereafter they have stated that taking all those aspects into consideration, the duties and responsibilities attached to the various posts of non-teaching staff of the Vidyalays have been listed out and the same were forwarded for reference.

10. Annexure R3(c) shows the duties and responsibilities of non-teaching posts. The learned counsel for the respondents rightly submits that all these duties are to be performed during office hours and no duties are to be performed after the office hours. So many duties are enlisted in Annexure R3(c). We have gone through those duties. All those duties are to be performed during office hours only. They are not duties to be performed after the office hours. It is stated that the UDC will be responsible to handle cash and to maintain the ledgers and cash book. The necessity of keeping the vouchers, files and reconciliation of entries etc. are part of the office duties to be performed during office hours. Maintenance of service books, correspondence, preparation of monthly and annual accounts, stamps, deposits, maintenance of personal files, office files and so many matters mentioned therein are only to be dealt with during the office hours. As regards the LDC also, the duties to be performed are typing, maintenance of files and record, diarying and dispatch. The duties and responsibilities of the teaching staff of the Vidyalayas were enlisted in consultation with the administration of the

academic wing. It is also submitted by the learned counsel for the respondents that the financial up-gradation to non-teaching staff working in JNV is given on completion of 10/20/30 years of regular service, whereas senior scale and selection scale are given on completion of 12/24 years of regular service to teaching staff in JNV as per Annexure R3(e) guidelines issued by the respondents. Annexure R3 (e) and (f) are the documents pertaining to the same.

11. Learned counsel for the respondents would also submit that the complaint made by the non-teaching staff that they are asked to stay during night in the residential accommodation provided by the JNV is only an advantage given to them. Learned counsel for the respondents would further point out the additional perquisites given to the non-teaching staff of JNV like free food two times a day, rent free accommodation and so many other aspects which they may have to forego if they are not to stay in the residential accommodation provided to them in the very same campus. After enjoying the advantages given to the non-teaching staff, it is a futile attempt on their part to say that they should be granted all the allowances but they should not be made to stay in the residential accommodation provided.

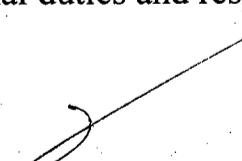
12. The contention that there is no rhyme or reason in discriminating the non-teaching staff and the teaching staff is found to be too facile to



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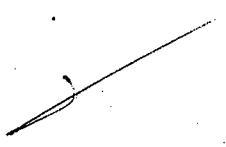
be countenanced. The teaching staff and non teaching staff cannot be equated, going by the duties which are to be performed by the teaching staff after office hours. They have to attend the individual needs of each and every student and they may have to listen to students to clear doubts which would occur only when the students go through lessons during study time (night time). If only teachers are made to stay in the campus, the students can approach the teachers to clear doubts. Not only that, teachers have to supervise as to whether the students are engaged in studying during study time and whether they are attending studies promptly and regularly and whether they are maintaining discipline inside the campus. The very fact that the teachers have to attend to each and every student during study time especially during night time and that it is the duty of the teachers to clear doubts and to help students to achieve the standard/target, it cannot be said that that duty can be performed by ministerial staff or non teaching staff. The pay and allowance of non teaching staff cannot be at par with teaching staff. Discrimination, if any, flows from the nature of duties and not from anything else.

13. The letter dated 15.6.2005 which has been produced along with an MA has been relied upon by the learned counsel for the applicants to submit that some additional duties and responsibilities were also asked to



be carried out by the Office Superintendent in addition to the duties and responsibilities notified earlier. Those three words namely; to maintain stock and accounts register of all stores, furniture and equipment in the Vidyalays including hostels is one which is to be performed during office hours. It is not something to be done after office hours or during night time. The other one is to make arrangement for proper registry of stores, uniform and other articles to students and to maintain proper records thereof and the third one is to make arrangement for proper security and maintenance of the Vidyalaya buildings dormitory, mess and hostel. It is stated that the three additional duties mentioned above would include storage and distribution of text books, stationery to the students, collection of requirement of textbooks, supervision of cleanliness including hostel, kitchen and dining quarters, buildings and campus as a whole. A reading of aforesaid duties itself would make it clear that all those things are to be done during office hours when the students go to school. Distribution of stationary and textbooks etc are to be done during school hours. Kitchen, dining quarters . Hostel etc are to be cleaned when the students go to school and not after sunset.

14. The State/Govt has taken care of the service conditions of teachers. Accordingly the teacher owes dual fundamental duties to himself and to the society. As a member of the noble teaching profession,



a teacher should always be willing, self disciplined, dedicated with integrity to remain ever a learner of knowledge, intelligence to articulate and communicate and imbibe in his students a social duty to impart education to bring them up with discipline etc. The education that is imparted by the teacher determines the level of student for the development, prosperity and welfare of the society. A good teacher is one who knows his subject, is enthusiastic about it and one who never ceases to learn. Communication with the students and a sense of commitment to work are necessary. A good teacher, therefore, is one who is objective, just, humble and is open to correction. It is the teacher who is the local parent to take care of the children and to bring them up and to face the challenges of their lives. Without a dedicated and disciplined teacher, even the best education system is bound to fail. Therefore, the teacher's duty is of paramount importance. They are to take care of the students as a careful parent would take care of his children. Going by that standard and taking note of all these aspects, it can be very well said that the teachers are on a high pedestal and as such the non-teaching staff cannot compare themselves with the teachers to claim such pay and allowances which are given to the teachers. There is a rationale behind in giving such a residential special allowance to the teachers since the teachers have to attend duties during night hours also

in order to impart knowledge to the students, to clear doubts and to maintain discipline and also to oversee that the students make use of their time to the maximum for learning, not only from books but also from teachers as well. There can be no comparison at all. The contention that the non-teaching staff should also be equated with the teachers and they should also be granted special compensatory allowance is found to be bereft of any merit.

15. This OA fails and is accordingly dismissed. No order as to costs.



(P. Gopinath)
Administrative Member



(N.K. Balakrishnan)
Judicial Member

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