

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 250 of 2000

Wednesday, this the 29th day of May, 2002

CORAM

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. N.K. Vimala,
Trained Graduate Teacher (Biology),
K.V. News Print Nagar,
Kottayam, Kerala
Residing at Vackechalil,
Thamarakkad, PO Veliyannoor,
Kottayam.Applicant

[By Advocate Mrs Sumathi Dandapani]

Versus

1. Union of India, rep. by its Secretary,
Human Resources Development Department,
New Delhi.
2. The Commissioner,
Kendriya Vidhyalaya Sangathan, New Delhi.
3. The Joint Commissioner (Admn.),
Kendriya Vidhyalaya Sangathan, New Delhi.
4. The Assistant Commissioner,
Head Quarters,
Kendriya Vidhyalaya Sangathan, New Delhi.
5. The Deputy Commissioner (Admn.),
Kendriya Vidhyalaya Sangathan, New Delhi.
6. The Assistant Commissioner,
Kendriya Vidhyalaya Sangathan,
IIT Campus, New Delhi.
7. The Principal, Kendriya Vidhyalaya,
News Print Nagar, Kottayam, Kerala.
8. Senior Administrative Officer,
Kendriya Vidhyalaya Sangathan,
New Delhi-16
9. Sreelatha, Teacher,
Kendriya Vidhyalaya, Thrissur.
10. P.G. Marykutty, Teacher,
Kendriya Vidhyalaya, Kannur.Respondents

[By Advocate Mr. Thottathil B. Radhakrishnan (R1 to R8)]

The application having been heard on 29-5-2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant, a Trained Graduate Teacher in Biology in Kendriya Vidyalaya at News Print Nagar, Kottayam, under the 7th respondent has filed this Original Application aggrieved by the alleged inaction on the part of the respondents in not giving her due placement in the seniority list and by not considering her for promotion as Post Graduate Teacher (Biology) inspite of the assurance that was given to her on the basis of the judgement rendered by the Hon'ble High Court of Kerala in OP No.13549/94-K. Through this Original Application she has challenged A-12 statement of facts annexed alongwith A-11 orders passed on 4-2-1999 by the 2nd respondent and A-14 letter dated 22/23-2-2000 of the Deputy Commissioner (Personnel), KVS, New Delhi. She sought the following reliefs through this Original Application:-

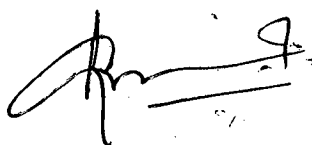
- "i) Call for the records leading to Annexure-A12 and A14 and quash the same;
- ii) To direct the 8th respondent to include the name of the applicant between Sl.No.42 and 44 as Sl.No.43 in Annexure A6 List prepared for P.G.T. for the period 1993-94;
- iii) To direct the respondents 2 to 4 to consider the applicant for promotion w.e.f. 23.8.93 as P.G.T (Biology) on which date her immediate Junior, the 10th respondent, was promoted;
- iv) To give all consequential benefits to the applicant with effect from 23.8.93 after promoting her as P.G.T (Biology), the date on which her immediate junior the 10th respondent was promoted;
- v) To pass such other reliefs as this Honourable Tribunal may deem fit and proper in the circumstances of the case; and
- vi) Award costs."



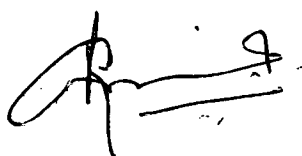
2. The applicant joined Kendriya Vidyalaya Sanghathan as Primary Teacher (PRT for short) in 1977. She was promoted as Trained Graduate Teacher (Biology) (TGT for short), which post she joined on 20-8-1987. She was transferred to KV, News Print Nagar, where she joined on 19-11-1991. She had passed M.Sc (Biology) and she was also a Master of Arts in History. Her seniority as PRT as per All India provisional seniority list upto 30-4-1979 was 3342. She submitted that overlooking her seniority the following juniors of hers who joined as Trained Graduate Teachers on the dates shown against them had been promoted as Post Graduate Teachers (Biology):-

(1)	P.O. Marykutty	September, 1987
(2)	Sreelatha	September, 1987
(3)	Mathai John	September, 1987
(4)	Ginjan Jain	September, 1987

3. In August, 1993 a vacancy had arisen in PGT (Biology) in KV No.II, Cochin. She submitted A-1 representation dated 16-9-1993 to the 5th respondent. She filed reminders A-2 dated 22-1-1994 and A-3 dated 30-6-1994. Her husband also addressed the Commissioner, the 2nd respondent, by A-4. When a promotion list was prepared for PGT as per A-5 memorandum published on 3-8-1993, the name of the applicant was not included in the said list. However, the 10th respondent who joined only in September, 1987 as TGT was included in the said list. When A-6 list of promotion as PGT for the year 1993-94 was published, after serial number 42, serial number 44 was included and against serial number 43 no name was included. This was mentioned in the A-4 representation submitted on her behalf to the 2nd respondent. She claimed that her name should have been included therein. The applicant filed OP No.13549/94-K in the



Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala disposed of the said OP by A-7 judgement dated 3-10-1994 directing respondents 2 to 5 to consider A-1 to A-4 and pass appropriate orders within a period of two months from the date of receipt of a copy of A-7 judgement. The 8th respondent disposed of the representations, by A-8. The applicant claimed that though the 8th respondent was convinced that there was a lapse in superseding the applicant by promoting her juniors, it was mentioned that a review DPC was being considered as provided under the Rules. She claimed that by putting a cut off date 30-6-1987 in A-9 letter calling for particulars of the names of those TGTs who fulfil the requisite qualifications for the years 1994-95, the applicant was excluded as she joined as TGT only on 20-8-1987. She claimed that if a list was properly maintained, it could be seen that Smt.Sreeletha joined as TGT only subsequent to the date of her joining as TGT. Pursuant to A-8 a review DPC met on 26-4-1995 and 18-5-1995 and the DPC came to the conclusion that the 9th respondent was not eligible to be considered for promotion as PGT and hence, her name was deleted from the panel and she was reverted as TGT. The 9th respondent approached the Hon'ble High Court of Kerala in OP No.8770/95 and obtained a stay of the order reverting her. OP No.8770/95 had been disposed of directing the 2nd respondent therein to consider the matter afresh and to pass orders after hearing the petitioner and all parties interested including the applicant. Accordingly, the 2nd respondent met the applicant and the 9th respondent and another teacher Smt.Janaki Menon on 28-12-1998. Subsequently, the 2nd respondent passed A-11 order dated 4-2-1999 holding that inclusion of the name of the 9th respondent in 1994 select list of PGT (Biology) was an inadvertent error. Hence, the orders cancelling her promotion

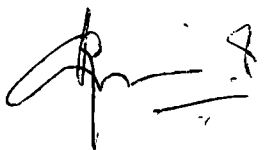


and reverting her had been upheld. A statement of facts had been annexed along with A-11 order, in which the 2nd respondent had held that the applicant is junior to the 9th respondent and fixed the applicant's seniority at 6776-A. According to the applicant, the same was wrong. Alleging that A-12 was arbitrary, cryptic and passed without application of mind, she has challenged the same. The applicant received A-14 letter dated 22/23-2-2000 assigning her seniority at 6776-A. As no reasons had been stated in the same and alleging that the same was wrong, she filed this Original Application seeking the above reliefs.

4. The official respondents filed reply statement resisting the claim of the applicant. It was submitted by them that mere possession of the qualifications of M.Sc (Biology), B.Ed. did not entitle the applicant for promotion. They averred that no TGT junior to the applicant had been promoted. It was submitted by them that Mrs P.G.Mary Kutty, Mrs S.Sreelatha and Mrs Gunjan Jain were all seniors to the applicant. According to them, the seniority numbers of the above named three TGTs were 6627, 6639 and 3534 respectively as against 6776-A of the applicant. It was also submitted that the case of Mrs P.G.Mary Kutty was placed before the review DPC and she was reverted to the post of TGT. Mrs M.John who was also erroneously offered promotion to the post of PGT (Biology), but she refused and did not join to the said post. The review DPC which met on 18-5-1995 concluded that the six persons who were not eligible for promotion as PGT (Biology) should be deleted from the select panel of PGT. (Biology) made in its meeting held on 7-6-1994. It was stated that the case of Smt.J.Santhakumari was not related to the case of the



applicant as Smt.Santhakumari joined as PGT (Economics), whereas the applicant is claiming for promotion as PGT (Biology). The seniority number of the 10th respondent who joined as TGT on 19-9-1987 was assigned as 6627 by the 7th respondent and the applicant's seniority was 6776-A. the 10th respondent was reverted to the post of TGT. The OP filed in the Hon'ble High Court of Kerala by the 10th respondent against the reversion was transferred to this Tribunal as TA 10/99 and the same was dismissed by this Tribunal on 27-9-2000. They denied that to fill up the gap in the promotion order (A-6) the name of the applicant should come. It was submitted that the applicant was not within the zone of consideration for promotion to the post of PGT (Biology) and that there was a typing error in the serial number. It was submitted that 9th respondent was working as TGT (Biology) in KV, Pangode. It was submitted that what was stated in A-11 and A-12 were correct and the applicant had no claim in the matter. It was further submitted that seniority number of Smt.Sreeletha, the 9th respondent, in PRT cadre was 2496 and the applicant was at 3342. The seniority number 6776-A was fixed as TGT (Biology) to the applicant on the basis of her feeder cadre seniority number and the same was correct. The official respondents also averred regarding Mrs J.Padmavathy, Mrs K.Saroja, Shri P.Yadav and Shri Trikha Ram, who were referred to by the applicant in the Original Application. It was submitted that Mrs J.Padmavathy and Mrs K.Saroja joined on 31-7-1987 and 11-9-1987 as TGT on promotion and they were promotees of 1983-84 panel for the post of TGT (Social Studies) and TGT (Biology) and the seniority number of Shri P.Yadav was fixed as 3736 as TGT as



per 1986 panel and Shri Trikha Ram being a SC candidate, his seniority number was fixed on the basis of reservation applicable to SC/ST candidates in case of promotion.

5. The applicant filed rejoinder reiterating the points made in the Original Application.

6. Heard the learned counsel for the parties.

7. Learned counsel for the applicant took us through the details in the Original Application. She mainly relied on the fact that the applicant joined on 20-8-1987 as TGT and Smt.Sreelatha joined as TGT on 8-10-1987 and hence Smt.Sreelatha was junior to the applicant for consideration for promotion to the post of PGT and Smt.Sreelatha having been promoted as PGT, she was also entitled for promotion. Similar arguments was advanced by her with reference to Smt.Mary Kutty also. On the basis of the submissions she prayed that para-7 of A-12 was not factually correct and hence, A-12 to the extent of para-7 needs to be quashed. She also relied on the judgement of the Hon'ble Supreme Court in the case of Niranjan Prasad Sinha & Another vs. Union of India & Others [AIR 2001 SC 2269]. She submitted that in the absence of any specific rule, as per the dictum laid down by the Hon'ble Supreme Court in the above judgement, the date of joining the post should be the criteria for determination of seniority and the applicant having joined earlier to the 9th and 10th respondents as TGT, the applicant should be deemed to be senior to 9th and 10th respondents. The next limb of her argument was that those who got promotion as TGT upto the beginning of 1986 had been given seniority numbers above 3000 and as the applicant having been



promoted as TGT in 1987, her seniority number should be close to 1986 promotees and should be around 4000. In this view, according to her, the seniority number assigned to the applicant as 6776-A was wrong and in that view A-14 was liable to be set aside and quashed. In this context, she referred to the seniority positions assigned to Smt.J.Padmavathy, Smt.K.Saroja, Shri P.Yadav and Shri Trikha Ram.

8. Learned counsel for the official respondents submitted that the promotion given to Smt.Mary Kutty and Smt.Sreelatha in 1994 was erroneous and pursuant to the review DPC conducted in 18-5-1995 these two persons had been reverted. He submitted that nobody junior to the applicant had been promoted as PGT and in the absence of anybody junior to the applicant being promoted as PGT, the applicant has no right for promotion as PGT. He also submitted that the criteria for promotion to the post of TGT was seniority subject to rejection of unfit and as per the extant orders, wherever this is the criteria the persons considered at the same time are arranged in the select list on the basis of their seniority in the feeder cadre. Therefore, the seniority in the TGT cadre will be in the same order in which they were arranged in the PRT cadre. Smt.Sreelatha and Smt.Mary Kutty were senior to the applicant as PRTs and hence, the date of joining in TGT cadre was not the criteria for seniority in the TGT cadre and hence, the applicant was junior to Smt.Sreelatha and Smt.Mary Kutty (9th and 10th respondents herein). As regards the seniority number 6776-A allotted to the applicant and correctness of the same, learned counsel for the official respondents drew our attention to the remarks given in A-12 against Item No.4. He submitted that a similar plea had been raised by Smt.Sreelatha in her



representation. He submitted that the seniority for the direct recruits and promotees had been given on the principle laid down in the Department of Personnel's OM dated 7-2-1986. Referring to the said factual position given against item No.4; it was submitted that according to the OM of the Department of Personnel, promotees of 1987 had been clubbed amongst direct recruits of 1987 only and the seniority of the direct recruits had been fixed according to their position in the merit list and the seniority of the promotees had been fixed according to the seniority in the feeder cadre. The TGTs who joined from promotion panels upto the year 1985-86 had been dovetailed in between direct recruits in their vacant pockets upto seniority number 3782 and thereafter no promotees were available prior to the year 1987 and therefore they did not figure in the seniority list upto seniority number 6457.

9. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record.

10. On a careful consideration of the submissions and rival pleadings and on a perusal of the documents brought on record, we do not find that there is any cause of grievance for the applicant and the applicant is not entitled for any of the reliefs sought for. The first relief sought for by the applicant is for quashing the factual position given against para 7 in A-12. The said factual position reads as under:-

"Smt. N.K. Vimala, who was promoted as TGT w.e.f. 20.08.87 has been allotted seniority 6776-A. Her seniority number as Primary Teacher is 3342 and that of

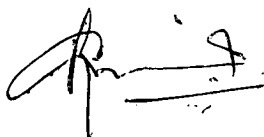


Smt. Sreelatha 2496. Therefore, even though Smt. Sreelatha joined as TGT on 08.10.87, she is senior to Smt. N.K. Vimala in the cadre of TGT."

11. When the criteria for promotion to the post of TGT is seniority subject to rejection of unfit, the seniority in the feeder cadre will be the criteria for arranging the selected persons in the select list. The fact that Smt. Sreelatha is senior to the applicant as PRT is not disputed by the applicant. When the said fact is not disputed, we do not find any infirmity in the action of the official respondents in placing Smt. Sreelatha as senior to the applicant in the TGTs cadre. In this view of the matter, we do not find any infirmity as far as this aspect is concerned stated in the factual position against para 7 of A-12.

12. Next is the question regarding the assignment of seniority number 6776-A to the applicant. The applicant is not seeking any specific number as far as her seniority position is concerned. She is only averring that her position should be around 4000. When, admittedly, her senior Smt. Sreelatha had been assigned the seniority position 6639 and another senior Smt. Mary Kutty had been assigned the seniority position 6627 and the official respondents explained the position of assignment of such seniority to these teachers on the basis of the DOPT's OM dated 7-2-1986 and the OM dated 7-2-1986 being not under challenge, this relief sought for by the applicant is also to be rejected. So, we do not find any substance in the claim for seniority around position number 4000.

13. The third relief sought for by the applicant is promotion as PGT with reference to the promotion of her immediate junior, the 10th respondent. As we have already held



..11..

that both 9th and 10th respondents are seniors to the applicant and in any case the said two respondents having been reverted to the posts of TGT, this prayer has no substance.

14. As the applicant's contention that there is no rule for assignment of seniority as TGT is found to be not correct, the Hon'ble Supreme Court's ruling relied on by the applicant's counsel has no application in the facts of this case.

15. In view of the above, we hold that the applicant is not entitled for any of the reliefs sought for.

16. Accordingly, we dismiss this Original Application with no order as to costs.

Wednesday, this the 29th day of May, 2002



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

ak.

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the representation dt.16.9.93 submitted by the applicant to the 5th respondent.
2. A-2: True copy of the reminder dt.22.1.94 submitted by the applicant.
3. A-3: True copy of the representation dt.30.6.94 reiterating the contentions.
4. A-4: True copy of the representation submitted by the applicants husband.
5. A-5: Relevant extract of the promotees list (Biology).
6. A-6: True copy of the list of promotion as P.G.T.
7. A-7: True copy of the judgment dt.3.10.94 in O.P 13549/1994K of the High Court of Kerala.
8. A-8: True copy of the Memorandum 30.11.94 of the 2nd respondent (relevant extract).
9. A-9: True copy of the letter dt.25.1.95 No.F-10-1/95 KVS (RP) issued by Sr. Administrative Officer.
10. A-10: True copy of the letter dt.30.6.93 F3-3/Estt/93-KVS(MR) issued by Administrative Officer.
11. A-11: True copy of the Memorandum No.19-7(3)/KVS(L&C) dt.4.2.99.
12. A-12: True copy of statement of facts annexed along with the orders (Annexure A-11) passed on 4.2.99 by the 2nd respondent.
13. A-13: True copy of the representation dt.22.2.99 submitted by the applicant to the 2nd respondent.
14. A-14: True copy of letter dated 22/23-2-2000 No.F-2-3/98-KVA (Seniority Cell) issued by the 5th respondent.

npp
5.6.02