

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.326/92

this the 19th day of July, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

Mrs. S.A.Gajendragadkar,
Head Mistress,
Central Railway Primary School(EM)
Manmad.Applicant

(By Advocate Sri M.S.Ramamurthy)

vs.

1. Union of India,
represented by the Chairman, Rly. Board,
New Delhi.
2. General Manager,
representing the Central Railway,
Administration,
Bombay.
3. Chief Personnel Officer,
Central Railway,
Bombay V.T.
4. Divisional Railway Manager(P,)
Central Railway, Bhusawal.
5. Senior Personnel Officer
(Labour & Welfare),
C.P.O's Office, Central Railway,
Bombay V.T.
6. Executive Engineer (B & F),
Manmad,
Chairman L.A.C.Central Railway
Primary School(EM).
7. Miss. S.B.Amolik,
Asstt.Teacher,
Central Railway Primary School(E.M.)
Manmand. Respondents

(By Advocate Sri S.C.Dhawan)

ORDER (ORAL)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

Mrs. S.A.Gajendragadkar, who was Head Mistress, Central Railway Primary School, English Medium, Manmad has filed this application aggrieved by the order dated 31.12.91 issued by the 5th

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respondent appointing the 7th respondent as Headmistress of Central Railway Primary School(English Medium), Manmad and the order dated 17.1.92 by which the applicant was reverted from the post of Head Mistress. According to the applicant, she being senior and qualified to hold the post, the action on the part of the respondents in appointing the 7th respondent who did not possess a Degree which is the qualification prescribed and the reversion of the applicant, was illegal and unjustified. The applicant has therefore prayed for the following reliefs:-

- a) that the Hon'ble Tribunal be pleased to set aside the order bearing No.43/91 dated 31.12.91 issued by Respondent No.5 appointing Respondent No.7 as Headmistress of Central Railway Primary School(EM), Manmad discontinuing the applicant who was appointed as Head Mistress of the said school under office order dated 24.9.1990.
- b) that this Hon'ble Tribunal be pleased to set aside the orders conveyed under letter dated 17.1.1992 of Respondent No.5.
- c) That this Hon'ble Tribunal be pleased to hold and declare that Respondent No.7 is not entitled to be appointed as Head Mistress of the Central Railway Primary School at Manmad since she is not holder of the requisite educational qualification and not having requisite qualifying service of 5 years teaching experience after acquiring graduation.
- d) that this Hon'ble Tribunal be pleased to hold and declare that the applicant is senior to Respondent No.7.
- e) That this Hon'ble Tribunal be pleased to direct the Respondents 1 to 6 to continue the applicant as Headmistress of the C.Rly, Primary School at Manmad in continuation of the order dated 24.9.90 appointing her as such Head Mistress.
- f) That such other and further order or orders be passed as the nature and circumstances of the case may require.
- g) that the cost of this application be provided for.

2.... The respondents 1 to 6 have in their reply contended since the title of Madhyama issued by the Hindi Sahitya Sammelan, Prayag, Allahabad is a qualification equivalent to Graduation as recognised by the Government of Maharashtra, the appointment of the 7th respondent

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was perfectly in order. Regarding the seniority, the respondents contend that in the seniority list published in the year 1967, the applicant was placed at S1.No.18 and the 7th respondent at S1.No.16 and therefore the claim of the applicant that she was senior to respondent No.7 is not correct. The 7th respondent has also filed a reply statement justifying her promotion and the reversion of the applicant. Thereaftr rejoinder, sur-rejoinder, additional reply statement etc. have been filed, a considerably long time has passed and during that time the applicant stood promoted again in the year 1994 and retired in the year 1998.

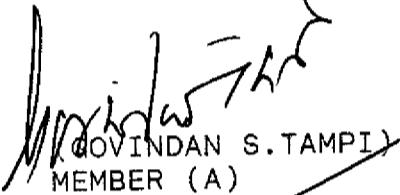
3. We have carefully gone through the records and heard Sri Ramamurthy, counsel of the applicant and Sri Dhawan, counsel for the respondents 1 to 6. On the basis of the seniority list Annexure R1 the claim of the applicant that she is senior to respondent No.7 cannot be accepted. The applicant has got the promotion as Head Mistress on adhoc basis and because of promotion of the 7th respondent on regular basis, the applicant was reverted to accommodate the 7th respondent, otherwise the applicant would have been continued on the post. The case of the applicant is that the 7th respondent not being a Graduate or its equivalent for all purposes should not have been appointed as a Head Mistress of an English Medium School. Sri Dhawan, the learned counsel of the respondents on the other hand argued that the action on the part of the respondents in appointing the 7th respondent as Head Mistress, Central Railway Primary School, Manmad is correct relying heavily on Exhibit R1 letter from the Education and Employment Directorate, a Department of the Mantrayala, Mumbai in

which it is seen stated that Madhyama, Hindi is equivalent to B.A. He argued that as the Government of Maharashtra has resolved that Madhyama title issued by the Hindi Sahitya Sammelan, Prayag, Allahabad is equivalent to Graduation i.e. B.A., the argument that the 7th respondent did not possess the requisite qualification is untenable. Shri Ramamurthy on the other hand, invited our attention to the copy of the resolution attached to the letter Annexure R5 dated 16.4.70 wherein it has been made clear that the title Madhyama is treated equivalent to B.A. for the purpose of teaching Hindi and in Hindi Medium School. It is clear from a close reading of the resolution that the Madhyama title issued by the Hindi Sahitya Sammelan, Prayag, Allahabad was treated equivalent to a Degree only for the purpose of teaching Hindi and for Hindi Medium School. On the basis of this resolution, the respondents 1 to 5 could not have validly come to the conclusion that the Madhyama title was equivalent to Degree for the purpose of appointment as Head Mistress, English Medium School. It appears that the appointment of 7th respondent on the post of Head Mistress in English Medium School was not in order.

4. Having come to this conclusion, we have now to consider what can be granted to the applicant. The subsequent events which took place should be taken into consideration. The applicant was promoted as Head Mistress with effect from 7.9.1992 on regular basis. Had she not been reverted for the appointment of the 7th respondent, she would have continued on the post till she was regularly appointed on the post. Now that the applicant is already retired from the service, we are of the view that the interest of justice would be met if the respondents 1 to 6 are directed to treat that the applicant continued

in the post of Head Mistress, even beyond 31.12.91 upto the date of her regular appointment as Head Mistress.

5. In the result, the application is disposed of directing the respondents to treat that the applicant to have continued as Head Mistress beyond 31.12.91 till the date on which she was regularly appointed as Head Mistress as if the reversion did not take effect, and to give to the applicant the monetary benefit, if any, flowing from that. No order as to costs.



GOVINDAN S. TAMPI
MEMBER (A)



(A.V. HARIDASAN)
VICE CHAIRMAN

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