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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

...

O.A. NO. 1232/1993

Dated this, the 10 th day of December '96

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HON'BLE MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

A. Nageswara Rao,
Trained Graduate Teacher,
South Central Railway School
(Telugu medium)
Stayanarayananapuram,
Vijayawada. ... Applicant

(By Advocate Mr. GVRS Varaprasad)

Versus

1. The Senior Divisional
Personnel Officer,
S.C. Railways,
Vijayawada Division,
Vijayawada.

2. The Chief Personnel Officer,
S.C. Railways,
Secunderabad. ... Respondents

(By Advocate Mr. V.Rajeswara Rao
for Mr. N.V.Ramana)

The application having been heard on 28.11.96, this
Tribunal, on passed the following:

JUDGEMENT

(Per Hon'ble Mr. M.G. Chaudhari (J), Vice Chairman)

The applicant claims that he is entitled to the Selection
Grade with effect from 1.1.86 and seeks relief to that effect
coupled with a declaration that the instructions issued by
the Railway Board dated 11.4.88 are bad in law being violative
of Article 14 of the Constitution of India.

2. The applicant was appointed as an Assistant after being
selected in the Railway School at Bilaspur under the South
Eastern Railway, on 1.4.1966. At that time he held the

qualification of B.Ed. On 17.9.75 he was appointed under the South Central Railway once again, after being selected by the Railway Service Commission, and was posted as Assistant at Vijayawada. By that time he had acquired post graduation. He is continuing in the work under the South Central Railway since then.

3. It is the contention of the applicant that the Railway Board vide its letter dated 11.1.88 directed revision of pay scales of school teachers, based on the recommendations of D.P.Chatopadhyay Commission. Under that scheme, a teacher was entitled to be placed in senior grade after 12 years of service in the basic grade and a teacher would be eligible for selection grade on completion of 12 years of service in senior grade and acquiring post graduate teacher's qualification where the teacher was a Trained Graduate Teacher only. Thus, ordinarily, the applicant would be required to put in 12 years in the basic grade plus 12 years in the senior grade and since he already holds a post graduate qualification, he would be entitled to be placed in the selection grade thereafter. The applicant completed 12 years in basic grade around 1983-84 and would be completing 12 years in the senior grade by 1998. Ordinarily, he would be entitled to be placed in selection grade only thereafter. There is no dispute on the point that the applicant has been placed in the senior grade.

4. Prior to 1988, the pattern was different. A selection grade was introduced on 1.4.76 after the basic grade. After the report of the Fourth Pay Commission, the pattern was altered and the erstwhile selection grade was designated as Senior Grade and a Selection Grade was introduced after the Senior Grade. To put in 12 years of service to attain Senior Grade and

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further service of 12 years to attain the Selection Grade but with the additional requirement to acquire post graduate qualification was introduced with effect from 1.1.86. At the material time the Senior Grade ~~is~~ pay scale of Rs. 1640-2900 and that of Selection Grade ~~is~~ Rs. 2000-3500. These pay scales came into effect from 1.1.86.

5. The Railway Board vide letter No. E(P&A)I-87/PS-5/PE-5 dated 11.1.88 conveyed certain decisions which have given rise to the present grievance of the applicant. The said letter, inter alia, provides as follows:-

"3. The revised pay scales, Teaching Allowances and Special Allowance will be applicable with effect from 1.1.1986

4. The allotment of the revised scales as in the Annexure will be subject to the following conditions:-

i) While senior grade to Primary School teachers, Trained Graduate teachers/Headmasters of Primary Schools and Post Graduate teachers/Headmasters of Middle Schools will be granted after 12 years in the basic grade, the selection grade (non-functional) will be granted after 12 years of service in the senior grade and will be further subject to the attaining of the prescribed level of qualification in respect of Primary School teachers and Post Graduate teachers qualification in respect of Trained Graduate teachers. Both the conditions, viz., completion of 12 years service in the senior grade and acquisition of the prescribed level of additional qualification, must be satisfied for becoming eligible to the selection grade in these cases."

6. This modality was modified by the impugned letter issued by the Railway Board No.E (P&A)I-87/PS-5/PE-5 dated 11.4.88 which is the subject matter of challenge in the O.A. It is provided in the letter as follows:-

"1. The pay of all teachers will be initially fixed as on 1.1.86 in the basic grade introduced on the recommendations of the Chattopadhyay Commission, which

is the same as the revised scales introduced on the recommendations of the 4th Central Pay Commission.

2. Those who have completed 12 years of service in the revised/pre-revised scales, will be placed in the senior grade subject to screening by the Departmental promotion committee.....

3. Since the selection grade introduced on the recommendations of the 4th Pay Commission is now the same as the senior grade in the new scale structure introduced on the recommendations of the Chattopadhyay Commission, such of these teachers who are already in the selection grade, introduced on the recommendations of the 4th Pay Commission, will be placed in the new senior grade, without a fresh screening by the Departmental Promotion Committee.

4. The new selection grade introduced vide this Ministry's letter of 11.1.88 is to be given to those eligible teachers who have completed 12 years of service in the senior grade subject to the fulfilment of all the prescribed conditions in the selection grade.

5. In the case of Primary School teachers and trained graduate teachers, the condition that the placement in the selection grade will be subject to acquiring the prescribed level of higher qualification, may be waived provided these teachers have already completed 18 years of service in the revised/pre-revised grade structure. Those who have not completed 18 years of service as well as new entrants have to acquire the prescribed level of higher qualification for consideration for the selection grade.....

(Rest of the provisions are not material)

7. The controversy in the instant case centres round the through implication of paragraph 5 set out above. It is submitted by the learned counsel for the applicant, Mr. Varaprasad, that by reducing the eligibility period to 18 years

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instead of 24 years to be entitled to get selection grade and at the same time relaxation in the condition of holding post graduate qualification in respect of those trained graduate teachers who did not hold that qualification treats those teachers differently than the teachers like the applicant who already hold the post graduate qualification and yet have to wait till expiry of 24 years to be entitled to get selection grade. As the respondents have actually given benefit of relaxation given in both the conditions under para 5 to certain trained graduate teachers who do not possess post graduate qualification, the respondents have practiced discrimination inasmuch as they insisted that the applicant would be eligible to get the selection grade only after completion of 12 years in the senior grade and is not entitled to the benefit of the relaxation in the period which is required to be only 18 years under paragraph 5.

8. The case of the respondents, however, is that the relaxation was introduced as a one-time measure only in respect of those trained graduate teachers who, on 1.1.86, had completed 18 years service in the revised/pre-revised grade structure, only to the extent of acquiring the prescribed level of higher qualification and not in respect of the requirement to work in the senior grade for a period of 12 years. Thus, save and ^{that} ~~except~~ ^{those} ~~teachers~~ ^{who} have been relieved of the requirement to have post graduate qualification to be entitled to selection grade if they fulfil the prescribed requirements to avail the relaxation, they ^{will} ~~may~~ also be treated equally as the applicant in respect of length of service required to be put in in the senior grade to be eligible to get the selection grade.

9. In paragraph 6 of the counter the respondents have categorically stated as follows:-

" The other condition of completion of 12 years service in the senior grade (Rs. 1640-2900) for

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entry into selection grade stands unaltered and this condition is to be satisfied for allotment of selection grade."

At the hearing, Mr.S.Kotilingam, Assistant Personnel Officer, South Central Railway, Vijayawada assisted the Standing Counsel and on his instructions Mr. Rajeswara Rao stated that the relaxation granted under the letter of the Railway Board dated 11.4.88 is only in respect of ^{higher} educational qualification for which cut off date is prescribed as 1.1.86 as a one-time measure and that the requirement to complete 24 years as required under the letter of the Railway Board dated 11.1.88 remains unaltered and that mere relaxation of the length of service from 24 years to 18 years, coupled with the relaxation in higher educational qualification, does not entitle a trained graduate teacher to get the selection grade until he completes ²⁴ ~~21~~ years in the senior grade. The Standing Counsel, on instructions of Mr. Kotilingam, further stated that in Vijayawada Division there is no case where a trained graduate teacher has been given selection grade merely on completion of 18 years as on 1.1.86. The learned standing counsel, therefore, submitted that there is no question of discrimination having been practiced by the respondents, inasmuch as the requirement to ^{totally} put in ~~in~~ 24 years in the two grades before a teacher is eligible to be placed in selection grade is common to everyone.

10. The grievance of the applicant, as stated earlier, proceeds on the assumption that the respondents are giving benefit of selection grade to those trained graduate teachers who have completed 18 years continuous service in the revised/pre-revised grade on 1.1.86 with relaxation in the condition to acquire higher educational qualification and therefore their refusal to give selection grade to him is illegal. It is

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pointed out in that connection that vide memorandum dated 21.3.90 issued by the 1st respondent the applicant's pay was fixed in the senior grade at Rs. 2540/- as on 1.1.86 which was increased to Rs. 2750/- as on 1.1.89. Relying on the clarification issued by the Railway Board vide letter dated 7.2.90 to all General Managers for the purpose of reckoning 18 years total service rendered upto 1.1.86, it is submitted that the respondents are counting the period of 18 years of service in a particular grade and not in an equivalent grade. Looked at from any angle, according to the applicant, the refusal to give him selection grade is discriminatory and illegal. According to the applicant, he submitted a representation on 20.12.91 to the 1st respondent claiming benefit of selection grade of Rs. 2000-3500. That was followed by personal representations and reminders to the 1st respondent, but as there was no reply, his grievance was taken up by the South Central Railway Mazdoor Union, Vijayawada. The topic was discussed in a joint meeting of the representatives of the Union and the authorities; but vide letter dated 26.4.93 the 1st respondent informed the Secretary of the Union that the applicant was not eligible for assigning of selection grade on the ground of non-fulfilment of the condition of 12 years in the senior grade and that the condition regarding completion of 18 years service in a particular grade need not be applied to him, since he acquired the prescribed level of educational qualification, whereas the 18 years service condition is applicable only when a teacher has not acquired the prescribed level of educational qualification. The applicant thereafter made a representation to the 2nd respondent on 5.5.93 and a representation to the Member (Staff), Railway Board on 23.7.93, but he did not receive any reply thereto.

11. The reply given by the Respondent-1 to the Secretary of the Mazdoor Union is at Annexure-AIII. While quoting the

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substance of the said letter as set out above, it appears, the applicant has mis-construed the said letter. Paragraph 2 of that letter firstly states that trained graduate teachers will be granted senior grade after 12 years of service in the basic grade and selection grade after 12 years of service in the senior grade subject to the attainment of prescribed level of educational qualification required for post graduate teachers and that, in other words, completion of 12 years service in the senior grade and acquisition of the prescribed ^{educational} level of qualification must be satisfied to become eligible to the selection grade. After referring to these basic requirements the letter states states in paragraph 3, inter alia, that in terms of the Railway Board's letter dated 11.4.88, one of the two conditions for the placing of PGTs in the selection grade, i.e., attaining of prescribed level of higher qualification, has been waived, provided those teachers have already completed 18 years of service in the revised/pre-revised grade structure and that those who have not completed 18 years of service as on 1.1.86 have to acquire the prescribed level of higher qualification for consideration for the selection grade.

The letter further states in paragraph 4 that the condition regarding 18 years service in a particular grade is to be applied only when a teacher has not acquired the prescribed level of educational qualification, but the other condition of completion of 12 years of service in the senior grade by entry into selection grade stands unaltered and this condition has to be satisfied for becoming eligible for selection grade.

11. The letter nowhere mentions that those PGTs who have completed 18 years of service as on 1.1.86 will be entitled to be placed in the selection grade immediately or without waiting for another 6 years. Moreover, the statement in

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paragraph 3 that one of the two conditions for the placement has been waived really means that the condition as regards length of service was not waived. The stand of the respondents in their reply is in tune with what was clarified in this letter.

12. The impugned letter dated 11.4.88, material portions of which have been already referred to, also provides in paragraph 4 that the new selection grade was to be given to those eligible teachers who have completed 12 years of service in the senior grade, subject to fulfilment of all the prescribed conditions for the selection grade and when paragraph 5, which gave relaxation in the condition to acquire higher educational qualification to TGTs who have completed 18 years of service, is read in conjunction with this paragraph, there can arise no doubt that the relaxation given under the letter dated 11.4.88 does not relate to the length of service.

13. The grievance made by the applicant in the O.A. therefore stems from wrong understanding of the scheme adopted by the Railway Board.

14. It was ~~falsely sought~~ ^{most faintly sought} to be argued/when the relaxation was given in the requirement of higher educational qualification vide letter dated 11.4.88 of the Railway Board, there was no justification for relaxing the said condition in respect of certain class of graduate teachers merely because they have completed 18 years of service, with the result that they could steal a march over the post graduate teachers who already possessed that qualification, although they had already put in 18 years of service.

applicant that such a distinction is invidious and baffles all logic inasmuch as a teacher having already possessed a post graduate qualification has to wait to complete 24 years of service, whereas those graduate teachers who merely completed 18 years of service are given the benefit of selection grade

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with double relaxation, viz., from the condition to acquire higher educational qualification as well as from the condition to put in overall 24 years service. This argument would have force in it, provided it was possible for us to hold that the teachers who had put in 18 years of service were rendered instantly eligible for selection grade without completing overall period of 24 years. why the Railway Board should have given relaxation in the matter of acquiring higher qualification is a question which has not been directly raised in the O.A. It was a policy decision taken in the light of recommendations of the Fourth Pay Commission and restructuring of the grades and introduction of selection grade. The letter of the Railway Board dated 11.4.88 recited that it was issued in the light of the recommendations of the National Commission on Teachers (Chattopadhyay Commission) and the recommendations of the Fourth Pay Commission. The impugned letter dated 11.4.88 had been issued after proper application of mind and there is no reason to assume that all angles were not examined or the relaxation has been given to certain teachers without any rational basis.

16. During the course of arguments it was indicated by the learned standing counsel that the relaxation was aimed at removal of stagnation of certain type of teachers who had put in at least 18 years of service as on 1.1.86 and due to advanced age they could not be expected to acquire higher educational qualification and they would be deprived of any prospect of higher grade in their service. The learned standing counsel could not place any material to show the reasons that had prompted the Government to take the aforesaid decision because that was not a question raised by the applicant and the respondents were not called upon to do so. In the absence of all the relevant materials in that behalf, the learned standing counsel, although tried to explain that the relaxation was given as a one-time measure, that does not satisfactorily explain as to why if the trained graduate teachers were given relaxation in the condition to acquire higher educational



qualification and would qualify merely on completion of 18 years of service on 1.1.86, but have to wait for another six years ~~and why~~ ^{that such} relaxation should have been contemplated to be given much in advance of the time instead of providing that on completion of a period of 24 years such trained graduate teachers who had not acquired post graduate qualification would also be eligible to get selection grade. That however is not necessary for us to probe on the frame of this application. Suffice it to say that there must have been adequate reasons for which the decision may have been taken. It is pertinent to mention that the letter dated 11.4.88 was issued in consultation with the Department of Education and also with concurrence of all concerned departments and only thereafter the provision for relaxation was introduced.

17. Mr. Varaprasad, learned counsel for the applicant next submitted that admittedly the erstwhile selection grade (now senior grade) was introduced on 1.4.76 and if the respondents are right in contending that the requirement to put in 12 years in the senior grade is still a requirement to obtain selection grade for those teachers who may have been given relaxation in respect of higher educational qualification, then, none of the teachers who may have fulfilled the requirement of putting in 18 years of service on 1.1.86 would be eligible to be given the benefit of selection grade immediately after 1986 as the period of 12 years in the senior grade could be completed only on 31.3.88. This argument proceeds on the hypothesis that the respondents had made the trained graduate teachers, without higher educational qualification, eligible for selection grade, merely on completion of the length of service of 18 years as on 1.1.86. We have already held that the respondents have benefited by the relaxation in terms of the letter



of the Railway Board dated 11.4.88, have to wait till they complete 24 years service, which they are bound to complete from 1976, this submission has no basis and no merit in it.

18. We have already stated that the respondents deny that they have given the benefit of selection grade to any teachers who had put in 18 years of service on 1.1.86 immediately after that date or till 1.4.88, or even thereafter till the teacher concerned had completed 24 years of total service. Although Mr. Varaprasad submitted that the respondents had in fact done so, he has not been able to produce any tangible material to substantiate that submission. All that he could do was to produce a copy of an office order dated 30.5.91 purportedly issued by DRM(P), wherein certain posts were ~~specified~~ qualified as selection grade posts for teaching staff of Railway Schools in the South Central Division (BG). It further shows that the two persons mentioned therein were fitted against the selection grade posts. The first name is of one Mr. G.Mohan Rao, Assistant Teacher in Telugu Medium School who is shown to have been placed in the selection grade with effect from 1.4.88. It does not therefore appear that depending on his individual facts he had not completed the requisite length of service as on 1.4.88. Mr. Varaprasad also did not have much to say about him. This name is, ~~it appears~~, typewritten in continuation of the main portion of the letter. After his name, we find a hand-written entry mentioning serial no. as 2 relating to one ~~Appalingam~~ ^{Ayyanar}. He is shown to have been placed in the selection grade with effect from 1.1.86. Mr.Varaprasad submitted that, that goes to show that the respondents have given benefit atleast to one teacher on the basis of completion that even those teachers to whom relaxation of educational qualification has been ^{made} available have to put in overall length of 24 years of service is not being followed. There

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are several difficulties in accepting that argument based on this entry, as the copy of the order produced at the time of hearing was not annexed to the OA and the respondents had no opportunity to explain the true position in respect of ~~Any appeal or~~ ~~Appealingam~~ or to controvert the claim of the applicant based on this copy. It would be hazardous to draw a conclusion that the stand taken by the respondents is blatantly contrary to what have been actually ~~made~~ ^{done} coupled with the stout denial by Mr. Kotilingam that in Vijayawada Division there is no such instance. It is not possible to accept the submission of the learned counsel. Moreover, if ~~in~~ some other Division, on a misunderstanding of the letter of the Board dated 11.4.88, if some person may have been given the benefit of selection grade, that would be wrong and would be a matter to be rectified in respect of the individual who may have been erroneously given the benefit of selection grade. That does not involve the question of interpretation of the letters of the Railway Board, nor entitle the applicant ipso facto to be given the selection grade even though he does not fulfil the requisite qualifications.

19. Mr. Varaprasad further submitted that there are several gaps which remain unanswered in respect of the policy adopted by the Railway Board. We do not quite appreciate as to in what manner there arise gaps in view of the construction we are inclined to place on the letters of the Railway Board.

20. It is stated in the counter that the applicant, Trained Graduate Teacher, in the scale of Rs. 1400-2600, was allotted senior grade (Rs. 1640-2900) with effect from 1.1.86. The communication addressed to the Secretary of the Mazdoor Union (Annexure-III) dated 26.4.93 by the DRM stated that the applicant was appointed as Graduate Teacher on 1.4.66 and was sanctioned senior grade with effect from 1.1.86 and as he had acquired the prescribed level of educational qualification, the condition

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regarding completion of 18 years service in a particular grade need not be applied, but he has to satisfy the other condition, i.e., completion of 12 years service in the senior grade along with service in the selection grade in the pre-revised structure for considering him for assignment of selection grade (Rs. 2000-3500). It was stated, for that reason, at ^{that} this stage the applicant was not eligible to be assigned the selection grade. We find that this decision is consistent with the rules.

21. In sum, we hold that there is no discrimination in the policy adopted by the respondents ~~and that~~ ^{nor} the refusal to give selection grade to the applicant straightaway is discriminatory vis-a-vis the applicant. We also hold that it is not established that the respondents are acting contrary to the prevalent rules as interpreted by us above and thus their action cannot be described as violative of article 14 of the Constitution. We further hold that the applicant will be eligible to be assigned selection grade only in accordance with the prevalent rules on fulfilling the prescribed eligibility qualifications and is not entitled to ^{be} given selection grade with effect from 1.1.86 as prayed. Consistently with these findings, the application is liable to be dismissed.

22. Before parting with the case, we do feel that ^a person like applicant, who ^{is} ~~was~~ a post graduate teacher, can only hope to get selection grade after ~~some~~ ^{is} somewhat 24 years and in that sense the rules operate ^{to be} harshly. That, however, is not a ground on which we can set aside the policy decisions of the respondents which, we assume, ^{to be} based on rational and comprehensive consideration since the matter

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is not confined only to Vijayawada Division but is relating to an all-India policy. In the result, the OA is dismissed. No order as to costs.

H.Rajendra Prasad
H.Rajendra Prasad
Member (Admn.)

10 DEC 96,

M.G.Chaudhary
M.G.Chaudhary (J)
Vice Chairman

Dated: 10 th day of December, 1996

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Ansley
Deputy Registrar (J) CC
17-12-96.

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TYPED BY

CHECHED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD
MEMBER(ADMN)

Dated: 10-12-1993

~~ORDER~~ JUDGMENT

M.A./R.A/C.A. No.

O.A.No.

in
1232/93

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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