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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

No.O.A.479 of 1999

DATE OF ORDER : 16.3.2000.

BETWEEN :

V.Satyanarayana S/o Late V.Ch.Prasada Rao,
aged about 59 years, Education Officer,
Kendriya Vidyalaya Sangathan (HR),
Regd. Office : Picket, Secunderabad-9.

... Applicant

A N D

1. Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh,
Marg, New Delhi-16.
2. Joint Commissioner (Admn.),
Kendriya Vidyalaya Sangathan,
Institutional Area, Shaheed Jeet Singh
Marg, New Delhi-16.
3. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regd Office : Picket,
Secunderabad-9.

... Respondents

Counsel for the applicant : Mr.P.Bhaskar.

Counsel for the respondents: Mr.B.Narasimha Sharma,
Sr.Standing Counsel.

CORAM :

The Hon'ble Mr.R.Rangarajan, Member (A).

The Hon'ble Mr.B.S.Jai Parameshwar, Member (J).

O R D E R

R.Rangarajan, Member (A)

Heard Mr.P.Bhaskar, for the applicant and Mr.B.Narasimha
Sharma, for the respondents.

2. The applicant herein was promoted as an Education Officer,
from the post of Principal vide memo no.F.No.2-5/97-KVS (Estt-1)

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..2/-,



dated 22.6.1998. The pay scale of Principal is Rs.10,000-15,200/- and the pay scale of Education Officer is also the same. The main contention of the applicant in this O.A. is that the Education Officer has to shoulder higher duties and responsibilities compared to that of Principal. Hence when the applicant was promoted as the Education Officer from the post of Principal, even though both the posts are in the same scale of pay, his pay should be fixed in the post of Education Officer following FR 22(I) (a) (1), in view of the fact the duties and responsibilities of Education Officer is more than the Principal.

3. The applicant has submitted a number of representations for fixing his pay as above under FR22(I) (a) (1), but his representations were disposed of by rejecting his prayer vide order no.3-6/98-KVS (E.I) dated 1.4.1999. By the impugned order dated 2.12.1998, the pay of the applicant was fixed as Education Officer without following FR.22(I) (a) (1).

4. This O.A. is filed to set aside the impugned order of fixation dated 2.12.1998 (annexure 'A/1' to the O.A.) and for consequential direction to the respondents to fix his pay at the stage of Rs.13,900/- w.e.f. 25.6.1998 with the date of next increment on 1.6.1999 in the post of Education Officer in the scale of pay of Rs.10,000-15,200/- with all consequential benefits.

5. The applicant apart from contending that he has discharged higher duties and responsibilities as Education Officer as compared to the Principal, also relies on a clarification given by letter no.F.19-13/98/KVS/Audit dated 15.1.1999 at page 6 of the reply, which states that when a PGT Teacher is promoted as a Vice-Principal his pay is fixed under FR-22(1) (a) (1) and when similarly TGT (Sr. Scale) is promoted to the post of PGT, then also his pay is fixed under FR-22(1) (a) (1). Hence, the same analogy holds good in this case also as the PGT and TGT ^{scale} is the same ^{as vice principal / PGT} in which they were placed when they were working as PGT and TGT, as the case may be.

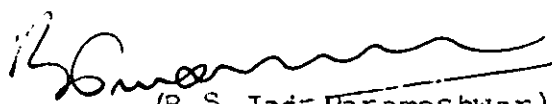
6. We have considered the above contention. When the law has been laid down by the Apex Court, the internal correspondence cannot be the reason to grant relief to the applicant herein. The Apex Court in 1998 (5) SCC 242 (UOI & Ors. vs. Ashoke Kumar Banerjee) has laid down two ^{conditions} ~~principles~~ for fixation of pay when an officer ^{is} ~~was~~ asked to discharge duties and responsibilities from one post to another when other post carries the same scale of pay.

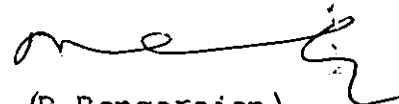
7. It was held by the Supreme Court that for fixation of pay under FR 22(I) (a) (1), two conditions are to be fulfilled. They are (i) the officer must be moving from a lower scale attached to ^{the} ~~the~~ lower post to a higher scale attached to the higher post and (ii) the post to which an employee is promoted should have higher duties and responsibilities. Only if these two conditions are fulfilled, then the fixation of pay under FR 22(I) (a) (1) is permissible.

8. In the present case, the applicant while working as Principal was in the scale of pay of Rs.10,000-15,200/-. When he was promoted as Education Officer, the scale of pay remained the same. But the applicant contends that his duties and responsibilities as Education Officer are higher than the duties and responsibilities of the Principal. Even though the duties and responsibilities of Education Officer is higher than that of Principal, in view of the judgment of the Apex Court referred to above, one of the conditions, namely, the scale of pay of Principal and Education Officer being the same, the condition ^① ~~is~~ is not fulfilled.

9. In view of the above, we are unable to accept the contentions raised by the applicant for fixation of his pay in accordance with FR 22(I) (a) (1) when he was promoted as Education Officer. We leave it to the department to examine whether any modification is required to letter dated 15.1.1999 (page 6 of the reply) in the light of the judgment of the Hon'ble Apex Court.

10. For the above reasons, this O.A. is dismissed. No costs.


(B.S. Jai-Parameshwar)
16.3.2008 Member (J)


(R. Rengarajan)
Member (A)