

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER : 17-5-2002

TA No. 4/2001

SBCWP No. 5359/95

Krishna Avtar Gupta son of Shri Nannu Malji, aged around 54 years, resident of Incharge Principal, Kendriya Vidyalaya Sangathan, Jhalawar (Rajasthan).

....Applicant.

VERSUS

Kendriya Vidyalaya Sangathan, through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.

....Respondents.

Mr. P.P. Mathur, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents.

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Hon'ble Mr. M.P. Singh, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. M.P. SINGH, MEMBER (ADMINISTRATIVE)

By filing this OA, the applicant has sought the following reliefs:-

(i) That the respondents may be directed to give promotion to the petitioner on the post of Principal, Kendriya Vidyalaya Sangathan against the vacancy for which petitioner was selected and order of promotion was issued vide Memorandum dated 25.9.1992 (Annexure A/1).

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(ii) That the respondents may be directed to assign seniority to the petitioner on the post of Principal w.e.f. 25.9.92 on from the date and order against the earlier vacancy for which petitioner was selected to occupy the post of Principal.

(iii) That respondents may be directed to fix pay of the petitioner on the post of Principal, Kendriya Vidyalaya Sangathan on the basis of promotion order dated 25.11.1992.

(iv) That the decision of the respondents (deemed to have been taken) to cancel the order of promotion in respect of the petitioner offered to him vide letter dated 25.9.92, may be set aside and quashed.

(v) That the respondents may be directed to give all consequential benefits to the petitioner.

(vi) That the respondents may be directed to produce any such order if it exist to cancel the order of promotion in respect of the petitioner, and the same may be taken on record and thereafter may be quashed.

(vii) Any other appropriate order or direction which the Hon'ble Court thinks just and proper to secure ends of justice may kindly also be issued in favour of the petitioner.

(viii) Cost of the petition may be awarded in favour of the petitioner.

2. The admitted facts of the case are that the applicant who was working as Vice Principal in Kendriya Vidyalaya Sangathan (KVS) was appointed as Principal in Navodiya Vidyalaya (NV) on deputation basis for a period of two years vide Memorandum dated 25.7.90. While he was working as Principal in NV, the applicant was promoted to the post of Principal in KVS vide Memorandum dated 25.9.92. However, applicant vide his letter dated 15.11.92 stated that "I cannot join my new assignment to the post of Principal as I am on deputation." He, therefore, requested the respondents to grant him proforma promotion to the post of Principal. The respondents in their Memo dated 25.9.92 while promoting the applicant had clearly stated that in case he did not accept the promotion to the post of Principal, he should make

written request to the appointing authority declining the same setting out reasons for such refusal. It was also mentioned in the said Memo that no fresh offer of promotion would be made to him for a period of one year from the date of refusal. The letter written by the applicant on 15.11.92 stating that he could not join his new assignment to the post of Principal was treated as refusal for promotion to the post of Principal in KVS by the respondents. The applicant was, therefore, debarred for promotion to the post of Principal. The applicant was again considered by the DPC for promotion to the post of Principal in July, 1995 but he was not found fit for promotion on the basis of service records. Thereafter, he was again considered for promotion to the post of Principal in the year 1996 and on the recommendations of the DPC, the applicant was promoted to the post of Principal by order dated 18.4.1996.

3. The applicant was repatriated to his Parent Department on completion of deputation with Navodiya Vidyalaya in 1994 and was appointed as Vice Principal in KVS. He made a number of representations to the respondents to appoint him to the post of Principal on the basis of DPC held in the year 1992. But the respondents did not acceded to his request for appointment to the post of Principal on the basis of the recommendations of the DPC held in the year 1992. Aggrieved by this, applicant has filed this OA.

4. Heard the learned counsel for both the parties and perused the whole record.

5. The point for consideration is whether the applicant could be granted proforma promotion to the post of Principal while he was working as Principal in Navodiya Vidyalaya on deputation. As per Para No. 17.4.1. of Departmental Promotion Committees' guidelines issued by Department of Personnel & Training O.M. No. 22011/5/86-Estt.(D) dated 10.4.89 as amended by O.M. No. 22011/5/91-Estt.(D) dated 27.3.97, If

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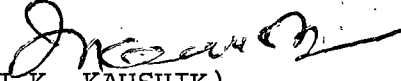
the panel contains the name of a person who has gone on deputation or on foreign service in the public interest including a person who has gone on leave study, provision should be made for his regaining the temporarily lost seniority in the higher grade on his return to the cadre. Therefore, such an officer need not be reconsidered by a fresh DPC, if any subsequently held, while he continues to be on deputation/foreign service/study leave so long as any officer junior to him in the panel is not required to be so considered by a fresh DPC irrespective of the fact whether he might or might not have got the benefit of proforma under the NBR. Para 17.4.2 of the said DPC guidelines further provides that in case the officer is serving on an ex cadre post on his own volition by applying in response to an advertisement, he should be required to revert to his parent cadre immediately when due for promotion failing which his name shall be removed from the panel. On his reverting to the Parent cadre after a period of two years, he will have no claim for promotion to the higher grade on the basis of that panel. He should be considered in the normal course alongwith other eligible officers when the next panel is prepared and he should be promoted to the next higher grade according to his position in the fresh panel.


6. In this case, we find that the initial deputation of the applicant to Navodiya Vidyalaya was for a period of two years which ended on 25.7.92. He was promoted to the post of Principal vide Memo dated 25.9.92. The extension of the deputation of the applicant beyond 25.7.92 was treated not in the public interest by the respondents and, therefore, he was asked by the respondents to report to KVS Office within a fortnight of the receipt of the order. The respondents vide letter dated 25.9.92 had made it clear that refusal of promotion would entail no fresh offer of promotion being made to him for a period of one year from the date of refusal. On eventual promotion to the post of Principal, applicant would lose his seniority. The respondents in their reply in Para No. 8 have also stated that applicant while on deputation stayed back in Navodaya Vidyalaya Samiti.

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unauthorisedly for a period of another two years inspite of the fact that he was offered promotion to the post of Principal in KVS. The respondents have also stated that applicant continued on deputation in Navodaya Vidyalaya Samiti on his own volition. These facts mentioned in the reply of the respondents have not been refuted by the applicant nor he has produced any documents, which could establish that deputation of the applicant to Navodaya Vidyalaya Samiti as Principal was in the public interest. Since, the period spent by the applicant on deputation to Navodaya Vidyalaya was not in public interest and the applicant had continued to be on deputation on his own volition, he is not entitled to regain temporarily lost seniority in the higher grade on his return to his parent office as per Para 17.4.1 of the said DPC (supra).

7. For the reasons recorded above, OA has no merit and is accordingly dismissed. No order as to costs.


 (J.K. KAUSHIK)
 MEMBER (J)


 (M.P. SINGH)
 MEMBER (A)

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