

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 797 of 2002

Jabalpur, this the 21st day of January, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

H.S. Verma, S/o. D.S. Verma,
aged 65 Yrs., Retd. Teacher,
C. Rly. H.S. School, New Katni
R/o. Rajeev Ganjdhi Ward, Rubber
factory Road, Katni, Teh. & Distt.
Katni (M.P.).

... Applicant

(By Advocate - Shri M.B. Saxena with Shri K.S. Chouhan)

V e r s u s

1. Union of India, through
Secretary, (Estt.) Ministry
of Railways, Rail Bhawan,
New Delhi.

2. The General Manager,
Central Railway, Mumbai
(CST) (Maharashtra)

3. The Divisional Rail Manager,
Central Railway,
Jabalpur (M.P.).

... Respondents

(By Advocate - Shri S.S. Gupta)

O R D E R

By G. Shanthappa, Judicial Member -

The said OA is filed seeking direction to quash the impugned order at Annexure A-1 dated 5.11.2001 and to fix the pay of the applicant in the grade of Rs.1640-2900 w.e.f. 25.8.1985 or at least from 1.1.1986 and accordingly pay the arrears. He has also prayed for a direction to Respondent No.3 to allot the applicant the grade of Rs.6500-10500 w.e.f. 1.1.1996 instead of 23.10.1997 as intimated vide Annexure A-1, and other consequential benefits.


2. The brief facts of the case are that the

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juniors to the applicant, namely, Smt. Pushpa Jain and Shri M.P.Sen were promoted to the grade of Rs.530-630 from a latter date.

As per the IVth Pay Commission's recommendations both the grades of Trained Graduate Teachers and Selection Grade of Primary School Teachers were merged in one grade of Rs.1400-2600 with effect from 1.1.1986. The grade of Rs.1400-2600 was subsequently replaced by new Senior grade of Rs.1640-2900 (RPS) w.e.f. 1.1.1986 ignoring the applicant. The respondents have issued the clarification letter dated 22.6.1989 stating that "Primary Teachers/TGT who have completed 18 years of continuous service of revised/pre-revised grade are eligible to be placed in the New Selection grade without acquiring higher level of Qualifications". A copy of the aforesaid clarification is placed at Annexure A/5 to the OA. Placing reliance on the aforesaid clarification, the applicant stated that he is also eligible to have been upgraded to Rs.1640-2900 (RPS) from the date 25.8.1985.

3. The respondents have issued the clarification letter dated 11.4.1988 which was earlier to the said clarification, it had been laid down that in anomalous cases where Trained Graduate Teacher promoted departmentally to the scale of Rs.1400-2600 draw less pay than their juniors, who are allotted a New Selection Grade due to upgradation in terms of IVth Pay Commission in that case, the pay of the Senior Trained Graduate Teacher would be stepped upto the level of the junior. As the respondents have not considered the case of the applicant at par with the so called juniors, the applicant



has approached this Tribunal, through this OA, claiming the reliefs as prayed above.

4. The applicant has also, subsequently, relied on the Circular No.16 of 1989 dated 7.12.1989 (Annexure A-8) in which one Shri N.C.Chaturvedi and Shri R.K.Mittal, whose names appeared at Sl.No.1 and 2 respectively in the pay scale of Rs.1640-2900.

5. Per contra, the respondents have filed their reply denying the contentions of the applicant. The specific contention of the respondents is that the applicant is retired on 30.11.1997, but put-forth his grievances in the Pension Adalats held in June & December, 2000 asking for Gr. Rs.1640-2900 (RPS) w.e.f. 1.1.1986. During those Adalats the applicant was advised briefly as to why he was not eligible for the allotment of "Selection Grade" stating that he was already promoted and posted to Trained Graduate Teacher in the scale of Rs.1400-2600 (RPS) before 1.1.1986, so he was not entitled for "Selection Grade" of Rs.1640-2900 (RPS). However, at a later date, he was again preferred another application ~~before the Tribunal~~ on 22.4.2001 (Annexure A-2) which was replied on 5.11.2001, reiterating the position that was advised to him during the Pension Adalats by Respondent No.3. It is further stated that the cause of action arose in the year 1988, whereas the applicant has filed the present OA in the month of November, 2002 which is against the Section 21 of the Administrative Tribunals Act, 1985. Hence, the application is liable to be dismissed on the ground of laches.

6. Further contentions of the respondents are that 20% posts of the entire cadre of Asstt.

"Selection Grade" in scale Rs.530-630(RS). The benefit of the "Selection Grade" was granted to the Applicant, along with other eligible teachers. The name of the applicant appears at Sl. No.18 of the said order dated 24.6.1985, ~~of order dated 24.6.1985.~~ All the posts in grade of Rs.330-560 (RS) were not converted as "Selection Grade".

7. Vide letter dated 28.6.1989 (Annexure A-4), of Hindi medium schools working in the selection Gr. ten teachers/were placed in the new senior grade of Rs.1640-2900 (RPS) w.e.f. 1.1.1986. The applicant was not allotted the selection grade at any time on or after 1.1.1986 and he has already promoted and posted as TGT Rs.1400-2600 (RPS) w.e.f. 23.8.1985. ~~The primary school teachers~~ As per the recommendations of the Chattopadhyaya Commission giving cut of date as 1.1.1986, the said recommendations have been implemented in true letter and spirit. Accordingly, the senior grade is to be given to Teachers concerned on completion of 12 years of regular service in the ~~primary~~ basic grade. On completion of 12 years of service in the senior grade, 20% Teachers in senior grade are allotted "Selection Grade (Non-functional)" subject to acquiring the prescribed level of qualification. It is further submitted that in the case of the Primary School Teachers/and TGTs, 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 as on 1.1.1986 in the revised/pre-revised grade structure vide letter dated 11.4.1988 and in the subsequent clarification dated 15.10.1987, it is clearly stated that "once a teacher is promoted to

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the next higher grade, he is not entitled to claim benefits in the lower grade and cannot be considered for grant of selection grade."

8. It is further stated by the respondents that the instructions received from the Railway Board revising the scales of pay of Asstt. Teachers who have been allotted "Senior Grade" and Selection Grade" and has nothing do with the applicant's claim whatsoever, who was working as Trained Graduate Teacher on 1.1.1986. Hence, the applicant is not eligible for Selection Grade. Accordingly, the applicant has not made out any case, the OA is liable to be dismissed.

9. In the rejoinder, the applicant has reiterated the pleas taken in the OA.

10. We have heard the counsel on either side and we have perused the pleadings on record. We find that the respondents have raised a preliminary objection of limitation and have stated that the cause of action arose on 11.1.1988 and OA is filed on 13.11.2002. The applicant has stated that after making so many correspondences from the year of cause of action, the respondents have given reply on 5.11.2001. In our considered view, mere filing of repeated representations does not give any cause of action as per S.S. Rathore vs. State of Madhya Pradesh, AIR 1990 SC 10 as such the OA is liable to be dismissed.

10. However, in the interest of justice, we also proceed to dispose of the OA on merits. We find that the respondents have already granted the senior grade. Admittedly, the applicant did not put in the requisite length of service as per the detailed clarification given by the respondents in their reply at Para-16 and 17

11. The applicant has compared his services along with Smt. Pushpa Jain and Shri M.P. Sen, whose names were shown in Annexure A-4 dated 28.6.1989 in which the name of the applicant was not found. The applicant has also produced the so called seniority list vide Annexure A-7 in which the name of the applicant is at Sl. No. 31 and he is comparing with Shri N.C. Chaturvedi and Shri R.K. Mittal whose names appeared at Sl. No. 1 and 2 of the aforesaid seniority list. To prove his case the applicant had not produced the preamble portion of Annexure A-7. At one stage, he is compared with his case along with Shri N.C. Chaturvedi and Shri R.K. Mittal and in another stage he is compared with Smt. Pushpa Jain and Shri M.P. Sen.

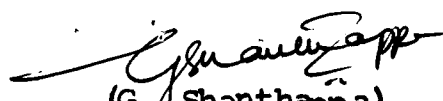
12. The clarification made at para 6 of the letter dated 11.4.1988 (Annexure A-9) is not applicable to the facts of the present case. Para 6 is reproduced below :

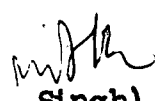
"6. There could be cases of teachers, who are presently working in a grade higher than the one to which recruited; for example, a primary school teacher, initially recruited to the grade of Rs. 330-560/1200-2040 (RPS) pay have reached the ordinary grade of Rs. 1400-2600 in the normal course by promotion as a Headmaster/Trained Graduate Teacher. For fixation of their pay and determination of appropriate pay scale, their service in the present grade will be counted from the date of promotion as per the usual practice. However, this could lead to a situation primary school teacher in the revised ordinary grade of Rs. 1200-2040 being promoted to the senior grade of Rs. 1400-2600 in the new grade structure and drawing more pay than his senior, who has reached the ordinary grade of Rs. 1400-2600 in the normal course, due to promotion. In such cases, the pay of the senior in the ordinary grade of Rs. 1400-2600 should be stepped up to the level of the junior, placed in the senior grade of Rs. 1400-2600 on completion of years service, subject to screening by the DPC. This is an illustration and may be applied to similar such of anomalies."

The applicant cannot compare with the persons who are not similarly situated/placed. Hence, there is no violation of Articles 14 and 16 of the Constitution of India. When the

applicant has not worked for the period he is asking, he is not entitled for any pay since the benefit was already granted.

13. In the result, for the foregoing reasons, as the applicant has not made out his case for grant of any kind of relief, the Original Application is accordingly dismissed. No order as to costs.


(G. Shanthappa)
Judicial Member

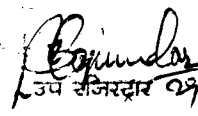

(M.P. Singh)
Vice Chairman

Forwarded
on
29-1-04

पृष्ठकल सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय जबलपुर, जबलपुर
- (2) अवेकल (P.A.) के वरिष्ठ मिड Saxena, Adm.
- (3) प्रमुख न्यायाधीश के वरिष्ठ मिड SS Gupta, Adm.
- (4) सूचना एवं आदेशों के वरिष्ठ मिड


उप सचिव 29/1/04