

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Transfer Application No. 3 of 2001

Jabalpur, this the 29th day of September, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member
Hon'ble Shri G. Shanthappa, Judicial Member

M. Prabhakaran, aged 54 years,
son of Shri Late M.R. Nambiar, working
as U.D.C. in the Kendriya Vidyalaya,
No. 1 STC, Jabalpur (MP).

... Applicant

(Applicant in person)

V e r s u s

1. Commissioner, Kendriya Vidyalaya Sangathan, 10 Institutional Area, Shahid Jeetsingh Marg, New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Kendriya Vidyalaya No. 1, G.C.Fy Campus, Jabalpur.
3. Principal, Kendriya Vidyalaya No. 1, S.T.C., Jabalpur (MP).

... Responder

(By Advocate - Shri M.K. Verma)

O R D E R (Oral)

By Anand Kumar Bhatt, Administrative Member -

The applicant was appointed as Upper Division Clerk in Kendriya Vidyalaya Sangathan (for short K.V.S.) under the Ex-Serviceman quota. In his previous service he was getting the benefits of adopting small family norms with special increment and rebate of half percent interest on the house building advance. However the respondents have taken a view that as it is a fresh appointment, the applicant not be eligible to get the said incentives in K.V.S.

2. The applicant has stated that the respondents have not interpreted correctly the word 'first appointment' and being Ex-Serviceman he has to be given the same benefits of the incentive for small family norms as was given to him in his previous service. He has referred to the judgment of the

Tribunal of Bombay Bench in the case of Shri Umashankar N. Naise vs. Union of India and others, in which it was held that such instructions for incentive will be applicable for the Ex-Serviceman who are re-employed after retirement ^{to the} from other Departments. Based on the said judgment of the Tribunal, instructions have also been issued by the Government of India (Annexure A-20).

3. The respondents have contested the case. The learned counsel for the respondents has argued that the instructions issued under F.R. 27, are applicable during the term of service of the employee and in his previous service the applicant had availed of this facility. As it is a new/fresh appointment in Kendriya Vidyalaya Sangathan for the applicant he will not be entitled to get this benefit in the present organisation.

4. We have seen the pleadings and have heard ~~the~~ both sides.

5. Similar case has been decided by the Bombay Bench of the Tribunal in OA No. 1218 of 1994, decided on 20.09.1995. The said decision of the Tribunal covers the present case squarely and we do not agree with the learned counsel for the respondents that this case can be distinguished from the said decided case of the Tribunal. Based on the said judgment of the Tribunal the Government has also issued instructions. In the case of Ex-Serviceman we do not think that for this purpose they ~~Ex-Serviceman~~ will be considered as fresh appointee and we do not agree with the contention of the learned counsel for the respondents. Accordingly, the impugned order dated 26.12.1997 (Annexure P-1) is quashed. The applicant will be eligible to get the incentives of special increment and the rebate of half percent interest on the house building advance and if any

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recovery has been made from the applicant in this regard, it will be refunded to him within a period of three months from the date of receipt of this order.

6. In the result the Original Application is allowed. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

"SA"

पूर्णांकन सं ओ/न्या.....जवलपुर, दि.....
प्रतिलिपि अच्ये धितः—

- (1) संस्थान, उत्तर राज्य शास्त्र दार एवं विद्यालय, जवलपुर
- (2) उत्तर राज्य शास्त्री/कु.....के काउंसल
- (3) उत्तर राज्य शास्त्री/कु.....के काउंसल
- (4) उत्तर राज्य शास्त्री, जवलपुर विद्यालय

सूचना एवं आवश्यक तत्वाबाबू देतु

m. prabhakar
13TC ODP
M.K. Vosma, 9/06

Prabhakar
संस्थान
7-10-03

Received
on
7/10/03