

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Transfer Application No. 38 of 1999

Jabalpur, this the 4th day of February, 2004.

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

Suresh Kumar Arya, Aged 42 years,
Son of late Shri Surajdeen,
Occupation Post Graduate Teacher
(P.G.T.) Kendriya Vidyalaya
Amhikapur District Surguja (M.P.)

APPLICANT

(BY Advocate - None)

VERSUS

1. Kendriya Vidyalaya Sangathan
through Deputy Commissioner (Adm)
18, Institutional Area, Shaheed
Jeeb Singh Marg, New Delhi-110016.
2. The Assistant Commissioner, Kendriya
Vidyalaya Sangathan, Regional Office
G.C.F. Estate, Jabalpur - 482001.
3. The Assistant Commissioner,
Kendriya Vidyalaya
Sangathan, Regional Officer,
Sector J, Aliganj,
Lucknow-226020.

RESPONDENTS

(By Advocate - None)

O R D E R

By G. Shanthappa, Judicial Member -

None is present on behalf of the applicant and respondents side. As this is an old matter of the year 1999, we are disposing of this TA in the absence of the learned counsel for the parties, by invoking Rules 15 and 16 of Central Administrative Tribunal (Procedure) Rule 1987, after perusing the available pleadings and material on records.

2. The above application is filed seeking relief for a direction to the respondents to ~~set~~ up the pay as per scale revised by fourth Pay Commission which was ^{already} ~~done~~ ^{done} in case of 5 TGTs and to pay the entire arrears and consequential benefits.



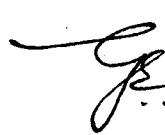
3. The brief facts of the case are that the applicant was appointed as T.G.T in the pay scale of Rs. 440-750/- on 27.8.84. In the 4th Pay Commission the pay of the applicant was revised to the grade of Rs.1400-2600/-. Subsequently he was promoted and posted to Kendriya Vidyalaya Ambikapur, on 30.8.84. The seniority of the teachers in all the cadres of TGT and PGT was determined and common seniority list was made, in the first seniority list his name was not found. The applicant has submitted his representation Annexure-A-3 with a request to incorporate his name in the seniority list of TGT. Subsequently, the applicant came to know that the seniority list of trained TGT was published as per Annexure-A-4, his name is not found in the said list. All his juniors are listed in the said seniority list. As per Annexure -A-4 Smt. B.Samoddar, Smt U.Khare, Shri P.N. Dwivedi, Smt. V.Palker, ^{and} Smt S.Joshi ^{cp.} have got stepping up of pay at par with their juniors. ^{Smt. V. Khare.} Accordingly the applicant, has asked the respondents for stepping up his pay at par with the said teachers. All the said teachers ^{cp.} belong to Jabalpur Division. The applicant has submitted representations dated 4.2.97, 26.8.97 and 13.11.97 ^{to} the respondents. The respondents have not yet taken any decision on the said representations. Hence the applicant has approached this Tribunal for grant of aforesaid relief.

4. Per contra the respondents have filed their reply denying the averment in OA. The main ground is that the OA is not maintainable on the ground of limitation. The applicant has filed the said Writ Petition on 15.5.98 (TA-38/98) and asking the relief for stepping up of pay at par with the said juniors. The cause of action arose on 1.1.86, the W.P. has been filed on 15.5.98. The applicant was appointed in the Lucknow Region he is asking and anti dating of increment for stepping up of pay comparing with the

juniors who are working in Jabalpur Division, the said list is prepared On/Region wise. Fr. 22 FR 27 is applicable for the purpose of regulating stepping up and anti dating in increment, in terms of provisions of CCS(RP) Rules, 1986, In respect of employees of the rank of PGTs and below in Kendriya Vidyalaya, the A.C. ^{the cadre} is ~~controlling~~ authority of the region concerned. The applicant never served in Jabalpur and has served in Lucknow Region only. Hence, he is not entitled for the said benefit from Jabalpur Division. The Assistant Commissioner Lucknow Region has informed to Assistant Commissioner Jabalpur Re-gion that none of the junior of the applicant is getting more pay than the applicant. The applicant has also not produced any document to show to that effect. The seniority list and stepping up of pay are two separate issues. Seniority list is prepared taking into consideration of promotional quota, reservation quotas of SC/ST and direct recruitment quota in accordance with panel posting of the individual concerned, whereas stepping up pay is to be decided considering date of joining of the individuals. Hence, the applicant is not entitled any kind of relief. Hence, this application is liable to be dismissed.

5. We have perused the records carefully, the provisions for stepping up of pay under FR 22(I)(a)(1) stipulates as under :-

" The stepping up should be done with effect from the date of promotion of the junior Government servant subject to the fulfilment of the following conditions namely:-

- (a) both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.
 - (b) the pre-revised and revised scales of pay of the lower and higher posts in which are entitled to draw pay, should be identical.
 - (c) the senior Government servants at the time of promotion have been drawing equal or more pay than the junior.
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- (d) the anomaly should be directly as result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him provisions of this Note need not be invoked to step up up the pay of the senior officer.

2. The order relating to re-fixation of the pay of the senior officer in accordance with the above provisions should be issued under FR 27 and the senior officer will be entitled to the next increment on completion of his required qualifying service with effect from the date of re-fixation of pay.

Such stepping up is permissible if the anomaly has arisen as a result of the application of provisions of FR 22-C (New FR 22(1)(a)(1) or any other rules or order regulating pay fixation on such promotion in the revised scale vis-a-vis the fulfilment of other conditions mentioned therein. The anomaly can be said to exist only if a senior employee, drawing equal or more pay than his junior in the lower post and promoted earlier, starts drawing less pay than such junior promoted later on regular basis. Further, two employees are said to be drawing equal pay if they have been drawing pay at the same stage with same date of increment. In the case the junior has been drawing the same pay with date of increment earlier than senior cannot be said to have been drawing equal pay and hence no anomaly.

6. The admitted facts are that the service of the applicant belongs to Lucknow Region and he is asking for stepping up of pay at par with the teachers, who are serving in Jabalpur Region. The applicant has not produced any document or seniority list to show that aforesaid 5 teachers who got benefit of stepping up of pay as per Annexure-P-4 are junior to him. As such the applicant has not been able to show that he has fulfilled the conditions of stepping up of pay, as reproduced above. In this view of the matter, the applicant has not proved his case for stepping up of his pay. Hence, the applicant is not entitled for the reliefs as prayed in the OA.

7. In the result, the OA is dismissed without any order as to costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman