

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 148 of 1999

Indore, this the 13th day of November, 2003

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

Smt. Kiran Chaturvedi,
TGT, Biology, Rly. Higher
Secondary School, Ratlam.

... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India represented by :

1. General Manager,
W. Rly. Churchgate,
Mumbai.
2. Divisional Rail Manager,
Do Batti, Divl. Office,
Ratlam.
3. J.K. Pandey, T.G.T.
Rly. Higher Secondary School,
Gangapur (RJH).

... Respondents

(By Advocate - Shri Y.I. Mehta for respondents)

O R D E R

By G. Shanthappa, Judicial Member -


The above Original Application is filed seeking the relief to quash the letter dated 07.10.1998 (Annexure A-1) and a direction to the respondents to assign seniority of the applicant position/ from the date of placement of the panel with further request to cancel the seniority assigned to the respondent No. 3.


2. The case of the applicant is that the applicant was working as Primary Teacher in the scale of Rs. 1200-2040(RP) at Ratlam. In response to the notification issued by the respondents for selection to the post of TGT, she was



qualified in Biology group. After due examination, the applicant was called for selection for the post of Trained Graduate Teacher under the scale of Rs. 1400-2600/-. The applicant was selected and assigned the panel position vide their order dated 20.10.1995. The applicant was posted at Railway Higher Secondary School, Bandikui. Subsequently she was transferred to Ratlam.

3. The respondents have selected one Shri J.K. Pandey, who was working on ad-hoc basis as Biology Teacher. The 3rd respondent neither appeared in the selection for the post of TGT Biology held in the year 1995 nor having such ^{regular} position as TGT Biology group. He has not yet been empanelled for the post of TGT Biology group. His post was purely on ad-hoc basis as he did not hold any lien on the post of TGT (Biology). The case of the applicant is that the 3rd respondent was promoted to officiate as Trained Graduate Teacher at the scale of Rs. 1400-2600/- being selected as TGT, Biology vide letter dated 22.12.1997. The panelled employees of 1997 cannot be assigned the seniority over and above the panelled and promoted employee of 1995. Subsequently vide order dated 18.12.1997 the 3rd respondent has been promoted and assigned seniority position above the applicant and also inter-polated his name in the panel notified on 07.05.1993. The applicant has submitted a representation and protested the incorrect and illegal seniority over and above the applicant, but the respondents have not considered the case of the applicant. Hence the applicant has approached this Tribunal for the reliefs as prayed for.

4. The respondents ~~respondents~~ ^{} have filed their reply denying the averments made in the Original Application and also the allegations made against the concerned persons.



The respondents have admitted in their reply that the 3rd respondent was posted as adhoc trained Graduate Teacher and was senior to the applicant as Assistant Teacher in the scale of Rs. 1200-2040/- (RP). The appointment of the respondent No. 3 was on 01.04.1991. He applied for the said post against the notification dated the 15.12.1992 for the post of TGT (Maths) at the scale of Rs. 1400-2600/- (RP). The respondents came to know that the 3rd respondent do not possess the requisite minimum educational qualification for being empanelled as TGT (Maths) and as such show cause notice was issued to him and his name was deleted from the panel of TGT (Maths) vide their memorandum dated 20.08.1997 (Annexure R-4). Admittedly the applicant and the 3rd respondent were appointed as TGT in different subjects. The respondents have submitted that the seniority of the employees under the pay scale of Rs. 1400-2600/- were prepared in which the service of the applicant and the respondent No. 3 has been clubbed and in the seniority list prepared the respondent No. 3 is ^{shown} senior to the applicant. The respondents have admitted that since there was an administrative lapses, corrective action was taken and due position of the respondent No. 3 was restored in the panel of 1995. The respondents also submitted that the 3rd respondent did not apply Biology group as at the relevant time he had already acquired the substantive position in the cadre of TGT scale of Rs. 1400-2300/- for which the selection was notified in the year 1995. They have also admitted that the respondent No. 3 was reduced to the position of adhoc TGT (Biology) temporarily till the regular empanellment on first attempt as TGT (Biology) available and during this period the applicant was posted vice him. The respondents have relied on their notification dated 15/17.12.1992 regarding selection for promotion of Class III



staff - Railway schools - filling up the posts of Junior Teacher (TGT) scale of Rs. 1400-2600 (RP).

5. Subsequent to filing of the reply the applicant has filed the rejoinder. In the said rejoinder the applicant has specifically contended that the respondent No. 3 was not selected and was working on adhoc basis as Biology teacher and he did not appear in the selection held under notification dated 04.02.1995. He was not a Biology teacher and he cannot be senior to the applicant. According to Rule 228 of IREM the case of the applicant cannot be considered. The respondent No. 3 has passed the selection for TGT Biology in the year 1997 and he cannot be placed in the panel of 1995 in which he has not even appeared for the selection test. The promotion given to the respondent No. 3 above the applicant is illegal. When there is an administrative lapses on behalf of the respondents the same has to be set right by giving justice to the applicant. Hence the reliefs of applicant should be granted.

6. After considering the arguments advanced by the advocate for the applicant and the advocate for the respondents, after perusal of the pleadings and the documents on record, we have decided the case on merits.

7. The admitted facts are that the applicant was selected in the year 1995 as TGT Biology teacher and the respondent No. 3 was not selected as TGT Biology teacher in the selection process during the year 1995. The respondent No. 3 was selected in the year 1997 as TGT Biology teacher. The official respondents have placed the 3rd respondent in the seniority list over and above the applicant without considering the services of the applicant on the ground that the

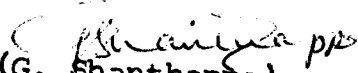


3rd respondent was appointed as TGT Maths in the year 1995 i.e. earlier to the applicant.

8. The ~~respondents~~ respondents have argued that while preparing the seniority of the employees who are at the pay scale of Rs. 1400-2600/-, the services of the applicant and the respondent No. 3 were considered and since the 3rd respondent was appointed in the year 1995 on adhoc basis under the pay scale of Rs. 1400-2600/- and he was senior to the applicant, accordingly they have placed the name of the 3rd respondent above the applicant.

9. After considering the case of the applicant, we find that there is an administrative lapse on the part of the official respondents while considering the case of the applicant and an injustice has been caused to the applicant. While considering the representation of the applicant dated 24.12.1997, the respondents have not passed a speaking order and they have not considered the services of the applicant and the respondent No. 3. Accordingly the impugned order at Annexure A-1 dated 07.10.1998 is quashed and the ^{official} respondents are directed to consider the services of the applicant and also the services of the respondent No. 3. It is further directed to the official respondents to assign the seniority of the applicant above the respondent No. 3. from the date of placement of respondent No. 3 in the panel.

10. Accordingly, the Original Application is allowed on the directions as issued/mentioned in the earlier paragraph. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

