

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 29th day of August, 2008

ORIGINAL APPLICATION No. 333/2008

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Anshul Parashar
s/o late Dr. N.N.Jha,
aged 36 years,
r/o A-102, Saraswati Nagar,
Opp. Sector-6,
Malviya Nagar,
Jaipur.

.. Applicant

(By Advocate: Shri Rajendra Vaish)

Versus

1. Kendriya Vidyalaya Sangathan
through its Commissioner,
18, Shaheed Jeet Singh Marg,
Institutional Area,
New Delhi.
2. Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Jaipur Region, 92, Gandhi Nagar Marg,
Bajaj Nagar,
Jaipur

.. Respondents

(By Advocate:)

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O R D E R (ORAL)

This application has been filed by the applicant as legal representative of late Shri N.N.Jha thereby praying for the following reliefs.

- (a) by an appropriate order or direction the respondents be directed to officially order for step up of pay and increase of the basic pay of the applicant as 11,750/- w.e.f. 29.6.1996 as has been provided to Shri Y.S.Sharma, Junior to the applicant vide Annex.A/1 and further to Shri C.L.Sharma, junior to the applicant vide Annex.A/2 and provide all arrears and consequential benefits including the revision and pension from 1.3.2002 to 29.6.2008.
- (b) the respondents may further be directed to pass appropriate orders in the case of the applicant in accordance with Annex.A/1 and A/2 and provide same benefits to the applicant.
- (c) any other relief which this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case may also be awarded to the applicant.

3. Briefly stated, ^{in Case of} ~~grievance~~ of the applicant is that Shri C.L.Sharma and Y.S.Sharma, junior to the father of the applicant in the cadre of Post Graduate Teacher, Vice-Principal and Principal were drawing less pay than father of the applicant till 1.11.1996. As per the averments made by the applicant in the OA, vide order dated 15.12.2003 pay of one Shri C.L.Sharma was stepped up to Rs. 11,750/- w.e.f. 29.6.96 in the pay scale of Rs. 7500-12000 at par with Shri Y.S.Sharma. It is further submitted that though pay of Shri C.L.Sharma was stepped up at par with his junior Shri Y.S.Sharma whereas in the case of father of the applicant, benefit of such stepping up was not given

even though both these persons were junior to him. Accordingly, father of the applicant made a representation dated 23.2.2004 (Ann.A3) followed by reminders. In all, as can be seen from Ann.A5, the applicant has given as many as 12 reminders to the respondents to remove the anomaly in the pay scale. Last such reminder was given on 27.5.2008. Unfortunately, father of the applicant died on 15.7.2008. It is after death of his father, the applicant has filed this OA thereby praying for the aforesaid reliefs.

4. We have heard the learned counsel for the applicant.

5. The learned counsel for the applicant could not satisfy us as to how the applicant is entitled to the monetary relief being Legal Representative of the deceased. Admittedly, the applicant is of 36 years' of age and as such after death of his father as per rules family pension has to be paid to the major son only upto the age of 25 years. Thus, the applicant is not entitled for the arrears of pensionary benefits as prayed by him. Further, this Tribunal cannot grant relief to the father of the applicant that his pay should be stepped up at par with his so called junior Shri C.L.Sharma. At the most this tribunal can give direction to reconsider the matter and the respondents are not bound to step up pay of father of the applicant if it be so, there is no question of

granting monetary relief to the legal heirs of the deceased.

6. The matter on this point is no longer res-integra. In somewhat similar circumstances, the Apex Court in the case of D.C. Agarwal (Dead) by LRs vs. State Bank of India and Anr., JT 2006 (5) SC 154 has held that even if the claimant were to succeed in his appeal, his legal representatives would not be entitled to any monetary relief. That was a case where the appellant retired from service on 9.9.1993 and died in 2005. The contention which was put forth before the Apex Court on behalf of the appellant was that even though the appellant had died, his legal heirs can be granted monetary benefits on the footing that (i) the appellant was entitled to get extension of service by two years and (ii) was also entitled to promotion as TECS VII. The Hon'ble Apex Court rejected both these contentions made on behalf of the appellant. The Apex Court in para 30 has categorically held that even if the appellant were to succeed in his appeal, the most favourable order for him could have been a direction to the respondent-bank to reconsider his case for promotion to TECS VII as also to reconsider extension of his service beyond the age of fifty eight years. Thus, even with such a direction it would not have been possible for us to say that the respondent-bank was bound to grant either of the appellant's claims. Thus, according to the Apex Court,

there is no question of monetary relief being granted to the legal heirs of the appellant.

Thus, in view of the ratio as laid down by the Apex Court in the case of D.C.Agarwal (supra) and the fact that the applicant is not entitled to any pension even if the pension is revised pursuant to grant of stepping up, we are of the view that the applicant has no locus standi to file this OA.

In case the present OA would have been filed by father of the applicant instead of applicant, he would not have been entitled for arrears of pay scale in view of the law laid down by the Apex Court in the case of M.R.Gupta vs. Union of India, (1995) 31 ATC 186. At the most he would have been entitled to refixation of his pension on account of revised pay fixation and in that eventuality, after his death, the applicant would not be entitled for pensionary benefits. Even on this account, no relief can be granted to the applicant.

7. For the foregoing reasons, the OA is bereft of merit, which is accordingly dismissed at admission stage.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl.Member

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