

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA. No. 060/00711/2014

Reserved on: 17.04.2015

Pronounced on: 28-4-2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

1. Shiv s/o Ram Lot, working as PGT Teacher (Guest) in Govt. Sr. Sec. School, Khuda Ali Sher, U.T., Chandigarh.
2. Suman Bala w/o Bipan Kumar, working as PGT Teacher (Guest) in Govt. Model Secondary School, Sector 23, U.T., Chandigarh.
3. Navneet Kaur d/o Amarpreet Singh, working as PGT Teacher (Guest) in Govt. Senior Secondary School, Kaimwala, Chandigarh.
4. Monica Sood d/o Balkrishan Sood, working as TGT Teacher (Guest), in Govt. Senior Secondary School, Mauli(v), Chandigarh.
5. Paramjit Sharma d/o Satpal Sharma, working as TGT Teacher (Guest), in Govt. Model Sr. Sec. School, Maloya Village, Chandigarh.
6. Ambika d/o C. R. Panesar, working as TGT Teacher (Guest) in Govt. Sr. Sec. School, Sector 45, U.T., Chandigarh.
7. Anu Garg d/o Surinder K. Garg, working as TGT Teacher (Guest) in Govt. Model High School, Sector 38 D, Chandigarh.
8. Ishita Singal d/o Sunil Singal, working as TGT Teacher (Guest) in Govt. Model Sr. Sec. School, Sector 38 (West), U.T., Chandigarh.
9. Kuldeep Kaur d/o Prem Singh, working as TGT Teacher (Guest) in Govt. Model High School, Sector 42, Chandigarh.



12A

10. Nisha d/o Gopal Singh, working as TGT Teacher (Guest) in Govt. M. Sr. Sec. School, Maloya, U.T., Chandigarh.
11. Meenakshi Sharma d/o Ashok Kumar Sharma, working as TGT Teacher (Guest) in Govt. M. Sr. Sec. School, Sector 37-B, Chandigarh.
12. Tardish Kaur d/o Dhanwant Singh working as TGT Teacher (Guest) in Govt. High School,, Karsan, Chandigarh.
13. Ranjna Bassi d/o Madan Lal Bassi, working as TGT Teacher (Guest) in Govt. Middle School, Indira Colony Manimajra, Chandigarh.
14. Samriti Sharma d/o Gulshan Kumar, working as TGT Teacher (Guest) in Govt. M. School, Indira Colony, Manimajra, Chandigarh.
15. Jyoti d/o Ram Narain, working as PGT Teacher (Guest) in Govt. M. School Sector 27, U.T., Chandigarh.
16. Gurpreet Kaur d/o Gurmail Singh, working as JBT Teacher (Guest), in Govt. Model Sr. Sec. School, Maloya, Chandigarh.
17. Anita d/o Jagdish Chander, working as working as NTT Teacher (Guest), in Govt. Model High School, Sector 26(P. L.), Chandigarh.
18. Pooja Chhabra d/o Som Dev Chhabra, working as TGT Teacher (Guest) in Govt. Middle School, Sector 26, U.T., Chandigarh.
19. Geeta Rani d/o Yash Pal, working as TGT Teacher (Guest) in Govt. Model High School, Sector 26, U.T., Chandigarh.
20. Sukhbir Kaur d/o Deena Nath, working as TGT Teacher (Guest) in Govt. Model Sr. Sec. School, Sector 28-D, Chandigarh.
21. Jasbir Kaur d/o Harbans Singh, working as TGT Teacher (Guest) Govt. Model Sr. Sec. School Sector 28-D, Chandigarh.
22. Jasveen Sul s/o Akbar Ali, working as PGT Teacher (Guest) in Govt. Model Sr. Sec. School, Sector 47-D, Chandigarh.
23. Sadhu Singh s/o Resham Singh, working as TGT Teacher (Guest), in Govt. Sr. Sec. School, Mauli Jagran (v), Chandigarh.
24. Poonam Kapoor d/o Vijay Kumar Kapoor, working as NTT Teacher

M —

- (Guest), in Govt. Sr. Sec. School, Mauli Jagran (v), Chandigarh.
25. Rajesh Kumar s/o Satpal, working as JBT Teacher (Guest), in Govt. Model Senior Secondary School, Sector 26, Chandigarh.
 26. Toshi Rani d/o Krishan Chand, working as J.B.T. Teacher (Guest) in Govt. Primary School, Sector 26, Chandigarh.
 27. Rajni Kalyan d/o Chhatar Singh, working as J.B.T. Teacher (Guest) in Govt. Model Senior Secondary School, Sector 8-B, U.T., Chandigarh.
 28. Sadhna d/o Mahender Singh, working as J.B.T. Teacher (Guest) in Govt. Model Senior Secondary School, Sector 8-B, U.T., Chandigarh.
 29. Davinder Singh s/o Inder Singh, working as J.B.T. Teacher (Guest) in Govt. Senior Secondary School, Mauli(v), Chandigarh.
 30. Pardeep Kaur d/o Doulat Singh, working as J.B.T. Teacher (Guest) in Govt. Model Senior Secondary School, Sector 38-W, DMC, Chandigarh.
 31. Seema Kumari d/o Chaman Lal, working as J.B.T. Teacher (Guest) in Govt. Senior Secondary School Dhanas, Chandigarh.
 32. Amandeep Kaur d/o Darshan Singh Rana, working as PGT Teacher (Guest) in Govt. Model Senior Secondary School, Maloya, Chandigarh.
 33. Ajay Kumar d/o Sohan Lal, working as TGT Teacher (Guest), in Govt. Senior Secondary School, Mauli(v), Chandigarh.
 34. Ram Dass s/o Balbir Singh, working as PGT Teacher (Guest) in Govt. Model Senior Secondary School, Karsan, U.T., Chandigarh.
 35. Neha Barthwal d/o Madan Lal Barthwal, working as J.B.T. Teacher (Guest) in Govt. Sr. Sec. School, Sector 45-A, U.T., Chandigarh.
 36. Minakshi d/o Ram Sunder working as JBT Teacher (Guest) in Govt. Senior Secondary School, Dhanas, Chandigarh.
 37. Raj Kumari d/o Devraj Sharma, working as JBT Teacher (Guest) in Govt. Sr. Sec. School, Mauli Jagran (v), U.T., Chandigarh.

As ———

38. Preeti Bhalla d/o Tajindar Pal Singh, working as J.B.T. Teacher (Guest), in Govt. Senior Secondary School, Sector 45-A, U.T., Chandigarh.
39. Mohammad Intzar s/o Irshad Ahammad, working as JBT Teacher (Guest) in Govt. Middle School, Indira Colony Manimajra, U.T., Chandigarh.
40. Sonia d/o Amar Nath, workings as JBT Teacher (Guest), in Govt. Senior Secondary School (J.W.) Dhanas, Chandigarh.
41. Parveen Rani w/o Arvinder Kumar working as TGT Teacher (Guest) in, Govt. Senior Secondary School, Chandigarh.
42. Rekha Sharma d/o Balkishan, working as JBT Teacher (Guest) in Govt. Primary School, Sector 26, (T.M.) U.T., Chandigarh.
43. Neha Kaushal d/o Naveen Kaushal, working as JBT Teacher (Guest) in Govt. Primary School, Sector 26, (T.M.) U.T., Chandigarh.
44. Musrat Ara s/o Hassan Mohmmmed, wrking as JBT Teacher (Guest) in Govt. Primary School, Sector 26, (T.M.) U.T., Chandigarh.
45. Jeevan Jyoti d/o Kans Raj, working as JBT Teacher (Guest) in Govt. Primary School, Sector 26, U.T., Chandigarh.

..... Applicants.

Versus

1. Chandigarh Administration through Education Secretary, U.T., Chandigarh.
2. The Director, Public Instruction (s), Chandigarh Administration, U.T., Chandigarh.
3. The District Education Officer, U.T., Chandigarh
4. Department of Personnel, Chandigarh Administration, through Secretary Personnel, U.T., Chandigarh.



..... Respondents

Present: Sh. Parvesh Kumar Saini, counsel for the applicant.
Sh. Aseem Rai, counsel for the respdts.

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

- “(i) It is prayed that the applicants *may kindly be held entitled to the grant* of salary equivalent to the minimum of the pay scale prescribed for the regularly appointed teachers *plus DA*, with consequential benefits including arrears from back dates, in view of the judgments of this Hon'ble Tribunal rendered in the case of *“Amita and other vs. Chandigarh Administration and others”*, O.A. No.656/CH/2012 vide Order dated 19.10.2012 (Annexure A-8), and in the case of *“Bandana Pandey und others versus Chandigarh Administration and others”*, O.A.No.602-CH-2011 decided vide Order dated 4.10.2011 (Annexure A-10), and in the case of *“Ram Phal and other Vs. Chandigarh Administration and others”*, O. A. No.538-CH/2010 (Annexure A-11).
- (ii) It is further prayed to direct the respondents to grant the arrears of salary from their date of joining till date.
- (iii) It is further prayed to direct the respondents to grant all those benefits to the present applicants pertaining to their contractual service as has been ordered by this Hon'ble Tribunal in its order/judgment dated 31.3.2011 passed in O.A. No.33-CH-2011, titled as *“Vandana Jain and others vs. Union of India and others”* and in the case of Krishan Kumar Vs. U.T. Chandigarh & others, (Annexure A-4), irrespective of the fact whether the present applicants had been a party or not in the earlier Original Applications filed in this Hon'ble Tribunal for the similar relief pertaining to contractual service.
- (iv) To quash the term/condition mentioned in the appointment/assignment letters of the applicants where it has been

As _____

16A

mention that Guest Teacher will be paid salaries/remuneration per period wise. (as has been mentioned at item no. 5 of the annexures A-2 and A-3)

- (v) To quash the impugned order dated 30.05.2014, passed by the respondent no.2, whereby above mentioned claim of the applicants have been rejected.
- (vi) It is prayed to expunge the word "Guest" from the appointment letters of the applicants being contrary to the settled law and direct the respondents to treat the applicants equivalent to their counterparts similarly circumstanced contract teachers appointed before the year 2008 as respect service benefits including merger of seniority, equal consolidated salary, all enhancements and arrears of revised consolidated salary from the effective dates granted by the U.T. Administration Chandigarh from time to time till date.
- (vii) It is further prayed to direct the respondents to prepare the combined seniority list of the applicants along with their counterpart- contract teachers appointed before the year 2008."

2. Averment has been made in the OA that the applicants are working as Guest Teachers/Faculty against regular posts of JBT, TGT and PGT teachers on contract basis in various Government Schools of UT Chandigarh as mentioned against their names. The Education Department, UT Chandigarh, issued recruitment notices from time to time between the years 2008 to 2010 and invited applications for filling these posts on contract basis. However, the words "Guest Faculty/Teachers" were mentioned in the advertisement Annexure A-1. Since all the applicants possessed the necessary qualifications, they

Ne —→ .

submitted their application forms in response to this recruitment process and after following the due selection procedure as prescribed in the advertisement, the result was declared, selections were made in order of merit and appointment letters were issued to the selected candidates including the present applicant as the Guest Faculty Teachers on contract basis. Copy of appointment letters issued to two applicants are annexed as Annexures A-2 and A-3.

3. At present, the applicants-guest faculty teachers are being paid salary as per the orders/letter dated 12.6.2012 (Annexure A-5) issued by the respondent no. 2 in the following manner:-

Sr. No.	Category	Revised emoluments
1.	JBT/NTT Teachers	Rs. 160/- per period subject to maximum of Rs. 15,000/- per month.
2.	Masters/ Mistresses (TGT)	Rs. 180/- per period subject to maximum of Rs. 18,000/- per month.
3.	Lecturers (PGT)	Rs. 200/- per period subject to maximum of Rs. 20,000/- per month.

It is clear from the above reproduced tables that the present applicants, who have been appointed after the year 2008 under the designation of Guest Faculty teachers, are being paid consolidated salary much lower than their counterparts only on the ground that the counterparts have been

18

appointed before the year 2008 as Contract Teachers, whereas, both are performing same duties for same number of hours with the same responsibility, teaching the same syllabus to the same students. This action of the respondents-Education Department in not paying "equal pay for equal work" to the similarly situated applicants, is highly discriminatory, illegal and arbitrary classification being not based on intelligible differentia having no nexus to the object sought to be achieved and amounts to sheer exploitation of Guest faculty teachers and as such is liable to be quashed being not in consonance with the mandate of equality clause enshrined in Articles 14 and 16 read with Articles 39 of the Constitution of India.

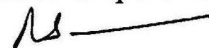
4. Aggrieved by the action of the respondents, 14 similarly situated Guest Teachers filed OA No. 656/CH/2012 titled as **Amita and Ors. Vs. Chandigarh Administration & Ors.** and this OA was allowed vide order dated 19.10.2012 (Annexure A-8). 31 similarly situated Guest Teachers filed OA No. 602/CH/2011 titled as **Bandana Pandey and Ors. Vs. Chandigarh Administration & Ors.** which was allowed in favour of the applicant vide order dated 4.10.2011 (Annexure A-10). A similar decision was rendered in **Ramphal and Ors. Vs. Chandigarh Administration & Ors.** in OA No. 538/CH/2010. The applicants

As —

therefore approached the Education Department requesting that they be granted the minimum of the pay scale as admissible to regular employees and to treat them like other contractual teachers appointed prior to 2008, but the request of the applicants was rejected on the pretext that they were working as Guest Teachers. The applicants then filed OA No. 141/CH/2013 titled **Amarjit Singh & Ors. Vs. Chandigarh Administration & Ors.** which was disposed of by this Tribunal vide order dated 10.3.2014 (Annexure A-18) directing the applicants to submit their representations to respondent No. 2 as per the conditions of their appointment order and if the applicants continue to be aggrieved in the matter, they would have the liberty to approach the competent legal forum as per law.

5. Respondent No. 2 decided the representations of the applicants vide order dated 30.5.2014 without examining the case of the applicants in the light of the documents placed on the record with OA No. 141/CH/2013 and rejected the just and fair claim of the applicants. Hence this OA.

6. In the written statement filed on behalf of the respondents, it has been stated that to meet the urgent requirement against temporary/leave vacancies, with the approval of Finance Department, Chandigarh



Administration, applications were invited by the Education Department, Chandigarh Administration during August, 2008 and on 4.7.2010 for preparation of a panel of Guest Faculty Teachers and persons so appointed were to be paid remuneration per period @ Rs.70/- to JBTs/ NTTs, Rs.80/- to Masters/Mistresses and Rs.90/- to Lecturers subject to maximum of Rs.7000/-, Rs.8000/- and Rs.9000/- per month respectively (Annexure R-1). At that time the consolidated amounts per month being paid to the contractual employees of these categories fixed by the Department of Personnel, Chandigarh Administration vide letter No. 28/54-IH(7)-2007/774 dated 10.1.2008 (Annexure R-2) were Rs.8700/- (in the pay scale of Rs.4550-7220 for JBTs/NTTs), Rs.10500/- (in the pay scale of Rs.5480-8925 for Masters/ Mistresses and Rs.12200/- (in the pay scale of Rs.6400-10640 for Lecturers). As such remuneration in respect of Guest Faculty Teachers and that of contractual employees was different from the initial stage. Further with the approval of Finance Department, the remuneration in respect of these Guest Faculty Teachers i.e. JBTs/NTTs, Masters/Mistresses and Lecturers was enhanced to Rs.140/-, Rs.160 and Rs.180/- subject to maximum of Rs.13000/-, Rs.15000 and Rs.16500/- vide order No. DPI-UT-S1-11(257)1995 dated 6.5.2010 (Annexure R-3). The same were revised to Rs.160/- subject to

Rs —————

20A

maximum of Rs.15000/-, Rs.180/- subject to maximum of Rs.18000/- and Rs.200/- subject to maximum of Rs.20000/- respectively vide No. 624-DPI-UT-S1-11(257)1995 dated 19.6.2012 (Annexure R-4). Now with the approval of Finance Department, Chandigarh Administration, the Department vide order No. DPI-UT-S1-11(257)1995 dated 31.10.2014 (Annexure R-5) has revised the same to Rs. 185/- per period subject to maximum of Rs.31000/- in respect of JBT/NTT, Rs.225/- per period subject to maximum of Rs.35100/- in respect of Masters/ Mistresses and Rs.300/- per period subject to maximum of Rs.38600/- in respect of Lecturers. It has been left to the discretion of Principals/ School Heads to engage JBT/TGT/PGT upto 169/156/130 periods per month respectively as per requirement. The revised rates of remuneration in respect of Guest Faculty Teachers is approximately at par with consolidated contractual amount fixed by the Personnel Department, Chandigarh Administration vide letter No. 28/54-IH(7)-2013/22392 dated 9.12.2013 (Annexure A-6). While making appointments on contract basis, there was proper interview by the Selection Committee (including subject expert in the related subjects). In respect of Guest Faculty Teachers, no interviews or written test were held and only panel in accordance with merit was prepared. Both the appointments were made separately. There



21A

were separate terms and conditions of appointment of Guest Faculty Teachers and that of Contract Teachers as well as remuneration in respect of Guest Faculty Teachers and that of contractual employee was different to each other from the initial stage. As such, panel of Guest Faculty Teachers cannot be combined with the contract teachers appointed before the year 2008. After the enhancement of remuneration of Guest Faculty Teachers vide order dated 31.10.2014 (Annexure R-5), the relief essentially sought by the applicants already stands granted and the present OA deserves to be disposed of accordingly, having been rendered infructuous.

7. Rejoinder has been filed reiterating the content of the OA and pressing that the Guest Teachers and Contract Teachers have to be treated in the same manner.

8. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant placed reliance on Vandana Jain (supra) to press his claim that the Guest Teachers were also entitled to all benefits as per Vandana Jain case. He also stated that no distinction could be made between the Guest Faculty and Contract Teachers as Guest Faculty were working in a school on a full-time basis

u —

22A

and hence, they were entitled to remuneration in the same manner as the Contract Teachers.

9. Learned counsel for the respondents reiterated the content of the written statement. He mentioned that the Guest Faculty Teachers were remunerated on per period basis subject to the ceiling prescribed through the order issued by the Education Department, Chandigarh Administration from time to time and latest instructions in this regard had been issued on 31.10.2014 (Annexure R-5) and hence, the relief sought by the applicants had essentially been allowed to them as a considerable increase had been effected in the remuneration allowed to the Guest Faculty Teachers. He stated, however, that Guest Faculty Teachers could not be equated with the teachers appointed on contractual basis as the mode of selection for such teachers and terms and conditions of such teachers for appointment are different. He stated that as per Annexure A-1 which was the Employment Notice in response to which the applicants had applied, they were appointed as Guest Faculty and could not consider themselves to be similar to the Contract Teachers working on full time basis and could not be allowed the same remuneration as regular teachers.

10. We have given our careful consideration to the matter. The cases referred in the OA viz. Amita (supra), Bandana Pandey (supra) and

As —

23A

Ramphal (supra) have also been perused. There is a clear distinction between the Guest Teachers and Contractual Teachers since Guest Teachers are only paid on per period basis and the consolidated amount for the ceiling prescribed for each category has been indicated as per the latest order dated 31.10.2014 (Annexure R-5). These amounts are close to the salary paid to contract teachers. Directions regarding payment of salary for vacations and not subjecting the applicants to notional breaks have already been issued by the respondent Department. A similar claim has been rejected vide order dated 22.04.2015 in OA No. 060/00482/2014 titled Sonal Thakur & Ors. Vs. UOI & Ors. Hence, this OA is also rejected. No costs.



(RAJWANT SANDHU)
MEMBER(A)



(DR. BRAHM A. AGRAWAL)
MEMBER(J)

Dated: 28.4.2015

ND*