

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.1960/2014

Wednesday, this the 31st day of January 2018

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Govt. School Teachers' Association, Delhi
Through its President
Shri Om Singh (Aged about 62 years)
s/o late Sh. Sri Chand
D-25, Delhi Admn. Flats
Karkarduma, Delhi – 110 092
2. Kuldeep Singh Yadav (Aged about 47 years)
s/o Sh. K M Gupta
Post : TGT (N. Sc)
Govt. Sarvodaya Bal Vidyalaya
Ramesh Nagar, New Delhi – 15
3. Deepak Kumar Gupta (Aged about 40 years)
s/o Sh. K M Gupta
Post TGT (Eng)
19A, Gali No.1, Shyam Nagar, Delhi – 51
4. Sandeep Uppal (Aged about 37 years)
s/o Sh. Prem Prakash Uppal
Post : TGT (Drg.)
A-6/79, Second Floor
Pashchim Vihar, Delhi – 63

..Applicants

(Mr. Padma Kumar S, Advocate)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat
Players' Building, New Delhi
2. Director
Directorate of Education
Govt. of NCT Delhi, Old Secretariat
Delhi – 110 054
3. Secretary
Ministry of Human Resource Development

Department of School Education & Literacy
B Wing, Ground Floor, Shastri Bhawan
New Delhi

4. Secretary
Deptt. of Personnel & Training
Government of India, North Block
New Delhi – 1
5. Secretary
Department of Expenditure
Ministry of Finance, Govt. of India
North Block, New Delhi

..Respondents

(Mr. K M Singh, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

The applicants in this O.A. were appointed as Trained Graduate Teachers prior to 01.01.2006 in the Directorate of Education. Their appointments were made between 1999 to 2002. The pay scale of Trained Graduate Teacher in the Directorate of Education was revised on the recommendations of 6th Central Pay Commission (CPC).

2. The claim of the applicants is that in case of Trained Graduate Teachers, who were already in service as on 01.01.2006, the respondents have fixed their pay by multiplying the existing pre-revised pay as on 01.01.2006 by a factor of 1.86 and adding appropriate Grade Pay, whereas in the case of direct recruits, the pay has been fixed at the minimum of ₹12540 + ₹4600 = ₹17140/- on joining on 01.01.2006 or thereafter.

3. It is stated that on one hand, minimum entry pay for Trained Graduate Teachers appointed on or after 01.01.2006 is prescribed as ₹17,140/- whereas the Teachers appointed as direct recruit in the same

manner prior to 01.01.2006, like the applicants, their pay has been fixed as per Rule 7 of Railway Services (Revised Pay) Rules, 2008, and in accordance with Fitment Table annexed with the rules by applying 1.86 formula as on 01.01.2006 ignoring the long service rendered by the applicants, and thus the pay of newly recruited persons on the same post is much higher than the applicants. The applicants have accordingly filed this O.A. seeking for the following reliefs:-

- “(a) Quash and set aside the impugned orders dated 10.10.2013 and circular dated 10.10.2011 to the extent that they have been applied to the Applicants.
- (b) Direct the Respondents to issue necessary instructions granting the applicants the minimum pay of Rs.13860/- plus Grade Pay of Rs.4600 making the basic pay of Rs.18460/- as per the fixation table for Rs.7450/- with bunching being done as applicable, with effect from 1.1.2006.
- (c) Without prejudice to the above, the Applicants be granted at least the minimum of Rs.12,540/- and the Grade Pay of Rs.4600/- making it Rs.17,140/- with effect from 1.1.2006.
- (d) Direct the respondents to grant the Applicants the arrears of pay from 1.1.2006 with interest thereon as applicable at Government rates.
- (e) Any other relief which this Hon’ble Tribunal may be pleased to grant.”

4. The applicants have relied upon the judgment dated 27.03.2015 passed by this Tribunal in O.A. No.98/2014 with O.A. No.107/2014 & O.A. No.111/2014. The relevant extract of the judgment is as under:-

“4. In the facts and circumstances of the case, we allow these OAs and declare that the discrimination in granting the pay scales to the directly recruited Staff Nurses prior to 01.01.2006 and after 01.01.2006 is in violation of Articles 14, 16 and 39 (d) of the Constitution of India. We, therefore, direct the Respondents to treat the applicants at par with the Direct Recruit Staff Nurses appointed after 01.01.2006 and grant the PB 2 scale of Rs.9300-34800 with the

grade pay of Rs.4600 with effect from 01.01.2006 and fix their pay accordingly. The Applicants are also entitled for all consequential benefits including arrears of pay and allowances with up to date interest at rate applicable to GPF deposits. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.”

5. This judgment was challenged before the Hon’ble High Court of Delhi in W.P. (C) No.8058/2015 *titled Union of India v. Malbika Deb Gupta*. The said Writ Petition along-with bunch of Petitions on the same subject was dismissed by Hon’ble High Court of Delhi vide judgment dated 04.11.2016 with the following observations/ directions:-

“14. Resultantly, the writ petitions are dismissed with the observation that the petitioners will pay to the respondents the minimum computation under clause (i) to clause (A) to Rule 7 and then compute the minimum pay applicable with reference to the pay band plus grade pay applicable to the revised pay scales as mentioned in Section II of Part B of the First Schedule to the 2008 Rules. If the net resultant figure as per clause (ii) to Rule 7 A is higher, then the respondents would be entitled to benefit of sub-clause (ii) to Rule 7 Clause (A) of the 2008 Rules.

15. This order will be implemented within 2 months from the date on which a copy of the order is received by the petitioners.”

A Review Application No.199/2017 filed there-against also came to be dismissed vide order dated 17.05.2017. The said judgment has attained finality.

6. In **Government of NCT of Delhi & another v. Somvir Rana (TGT ENG) & others**, an S.L.P. filed with Diary No.(s)23663/2017, the Hon’ble Supreme Court, considering the question of finality of the judgments and denial of similar relief to others vide its order dated 01.09.2017, held as under:-

“ Delay condoned.

We find that there are several matters in which the aggrieved employees have been going to the Tribunal, then to the High Court and thereafter those matters are brought before this Court at the instance of the Union of India/NCT of Delhi.

Once the question, in principle, has been settled, it is only appropriate on the part of the Government of India to issue a circular so that it will save the time of the Court and the Administrative Departments apart from avoiding unnecessary and avoidable expenditure.

The present situation is that the stepping up is available only to those who have approached the Court. But since the issue has otherwise become final, we direct the Government of India to immediately look into the matter and issue appropriate orders for granting the pay scale so that people need not unnecessarily travel either to the Tribunal or the High Court or this Court.

With the above observations and directions, the special leave petitioners are dismissed.”

7. It is not in dispute that the controversy involved in the present O.A. is squarely covered by the aforesaid judgment. This O.A. is accordingly allowed. The respondents are directed to fix the salary of the applicants at the entry level of ₹17140/-w.e.f. 01.01.2006 and arrears be paid with effect from the date of filing of this O.A. within a period of three months from the date of receipt of certified copy of this order.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

January 31, 2018
/sunil/