

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 2239/2012
MA 1807/2012

Reserved on: 28.07.2016
Pronounced on: 2.08.2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Shri Prashant Kumar Sharma
S/o Shri Ishwar Dass
Deputy Commissioner (Admn)
Navodaya Vidyalaya Samiti, Headquarters
A-28, Kailash Colony
New Delhi-110048
 2. D.C. Verma
S/o Late Shri O.P. Verma
Assistant Commissioner (Admn)
Navodaya Vidyalaya Samiti, Headquarters
A-28, Kailash Colony
New Delhi-110048
 3. Konikkal Sivaraman
S/o Late Shri K.G. Nair
Assistant Commissioner (Admn)
Navodaya Vidyalaya Samiti,
Regional Office, Pune
 4. Shri Madan Pal
S/o Late Shri Prathivi Pal
Assistant Commissioner (Admn)
Navodaya Vidyalaya Samiti,
Regional Office, Patna
 5. Veena Sharma
D/o Late Subedar Devki Nandan Sharma
Assistant Commissioner (Admn)
Navodaya Vidyalaya Samiti, Headquarters
A-28, Kailash Colony,
New Delhi-110048
- ... Applicants

(Through Shri Anil Srivastava, Advocate)

Versus

1. Union of India

Represented by the Secretary to the
Government of India,
Ministry of Human Resource Development,
Department of School Education & Literacy
Shastri Bhawan,
New Delhi

2. The Commissioner,
Navodaya Vidyalaya Samiti
A-28, Kailash Colony,
New Delhi-110048

3. The Joint Commissioner (Admn),
Navodaya Vidyalaya Samiti
A-28, Kailash Colony,
New Delhi-110048

....Respondents

(Through Shri S.M. Arif and Shri S. Rajappa, Advocates)

ORDER

Mr. P.K. Basu, Member (A)

In the Navodaya Vidyalaya Samiti (NVS), three types of posts of Assistant Commissioner have been created namely Assistant Commissioner (Admn), Assistant Commissioner (Finance) and Assistant Commissioner. The post of Assistant Commissioner is also referred as Assistant Commissioner (Academic) though the nomenclature in the Recruitment Rules (RRs) is Assistant Commissioner. All the Assistant Commissioners were in the same pay scale since 3rd Central Pay Commission (CPC) right upto 6th CPC. Their pay grade and Grade Pay is Rs.15600-39100 (PB-3) with GP Rs.6600/- after 6th CPC. The Principals of JNV schools were in the scale lower upto 4th CPC but the 5th CPC recommended the same pay scale namely Rs.10000-15200 for Assistant Commissioners and Principals as well.

2. The 6th CPC, however, while recommending pay grade Rs.15600-39100 (PB-III) with Grade Pay Rs.6600/- for Assistant Commissioners, recommended pay scale Rs.15600-39100 (PB-III) with Grade Pay Rs.7600/- for Principals. According to the applicants, this led to an anomaly as Assistant Commissioner's post is promotional post for Principal and, therefore, the Principal could not have been given a higher pay and, therefore, they prayed that Grade Pay of Assistant Commissioners should also be Rs.7600/- with effect from 1.01.2006.

3. To remove the aforementioned anomaly, the government upgraded the Grade Pay from Rs.6600/- to Rs.7600/- in PB-III of these posts of Assistant Commissioner (Academic), which are filled by promoting Principals only and further granted Grade Pay of Rs.7600/- for directly recruited Assistant Commissioner (Academic) as well from amongst the Principals vide orders dated 9.03.2009 and 8.07.2010 respectively.

4. Learned counsel for the applicants argued that, first of all, respondents cannot introduce a new nomenclature of Assistant Commissioner (Academic) as no such nomenclature exists. Secondly, it is argued that since all the Assistant Commissioners were in the same pay scale throughout and right upto 6th CPC, once the respondents have granted the Grade Pay of Rs.7600/- to Assistant Commissioner, the same pay Grade Pay should apply to Assistant Commissioner (Finance) and Assistant Commissioner (Admn) as well. According to them, this is clear violation of Articles 14 and 16 of the Constitution and cannot be

defended. This stand is also supported by learned counsel for NVS, Shri S. Rajappa. He has, however, clarified that NVS functions under Ministry of Human Resource Development (MHRD) and they have to abide by the decisions of the ministry.

5. Learned counsel for the respondents clarified that the posts of Assistant Commissioner (Academic), Assistant Commissioner (Admn) and Assistant Commissioner (Finance), all discharge different functions. Moreover, Principals in Grade Pay Rs.7600/- get promotion to the post of Assistant Commissioner (Academic) and not Assistant Commissioner (Admn) or Assistant Commissioner (Finance). Section Officer (Grade Pay Rs.4200/-) get promotion as Assistant Commissioner (Admn) and Section Officer (Cash) (Grade Pay Rs.4600/-) get promotion as Assistant Commissioner (Finance) being feeder cadres. From this it will be clear that there is no comparison between Assistant Commissioner (Academic) on the one hand and Assistant Commissioner (Admn) and Assistant Commissioner (Finance) on the other.

6. Per contra, the applicant argued that Assistant Commissioner (Admn) supervises the administration of all schools of which the Principal is the Head and, therefore, it is discriminatory that Assistant Commissioner (Admn) should be drawing lesser Grade Pay.

7. The fact is that all the Assistant Commissioners have been in the same Grade Pay till the 6th CPC. When the 6th CPC chose to upgrade the pay of Principal to Rs.7600/-, an anomaly arose.

Since the Principal gets promoted as Assistant Commissioner (Academic), the government first rectified the anomaly by protecting the pay of such Assistant Commissioners by granting them Grade Pay of Rs.7600/-. Subsequently, to remove anomaly between direct recruits and promotees, Grade Pay of Assistant Commissioner (Academic) was raised to Rs.7600/-. The 6th CPC had recommended keeping all Assistant Commissioners in the same Grade Pay but kept the Principal at a higher Grade Pay of Rs.7600/-. However, since the anomaly arose for reasons mentioned above, the government upgraded the Grade Pay of Assistant Commissioner (Academic) for both direct recruits and promotees to Rs.7600/-. The respondents, however, have been able to show that though the designation of Assistant Commissioner is common, the feeder cadre of Assistant Commissioner (Admn) and Assistant Commissioner (Finance) is from the level of Section Officer with Grade Pay Rs.4200/- and Rs.4600/- respectively whereas feeder cadre for Assistant Commissioner (Academic) is Principal, who have been granted Grade Pay of Rs.7600/-.

8. Clearly, the channel of promotion from Principal to Assistant Commissioner (Academic) is distinguishable from the channel of Section Officer (Grade Pay Rs. 4200/-) to Assistant Commissioner (Admn) and Section Officer (Cash – Grade Pay Rs.4600) to Assistant Commissioner (Finance). This is a policy decision of the government that they wish to distinguish Assistant Commissioner (Academic) channel from Assistant Commissioner (Admn) and Assistant Commissioner (Finance)

channel. We do not consider it appropriate to interfere in such policy decision of the government in the light of the judgment of the Hon'ble Supreme Court in **Ekta Shakti Foundation Vs. Govt. of NCT of Delhi**, AIR 2006 SC 2609. Moreover, the Hon'ble Supreme Court has directed, time and again, that the Courts/ Tribunals should not interfere in pay scale matters and it should be best left to be decided by expert bodies like Pay Commissions [**Union of India & Another Vs. P. V. Hariharan & Anr.** SCC (L&S) 838 and **Union of India & Ors. Vs. Makhan Chandra Roy** AIR 1997 SC 239].

9. In view of above discussion, the OA is dismissed. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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