

# Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.416/2016  
M.A. No.407/2016

Friday, this the 14<sup>th</sup> day of September 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Yatendra Kumar, TGT (N. Sc), Employee ID : 20040179  
Aged about 37 years  
s/o sh. Ishwar Singh  
r/o Q. No.14-F, Police Colony  
Model Town – IInd, Delhi -110 009
2. Vibha Tanwar, TGT (N. Sc.), Employee ID 20040180  
Aged about 35 years  
d/o C.R Tanwar  
Sector F-112, Gulsan Vivante  
Sector 137, Noida Express Way  
Near Panchsheel Balak Inter College  
Noida-201301 (UP)

..Applicants

(Mr. M K Bhardwaj, Advocate)

Versus

Govt. of NCT of Delhi & others through

1. The Chief Secretary  
Govt. of NCT of Delhi  
IP Estate, New Delhi
2. The Chairman  
Delhi Subordinate Service Selection Board  
Karkardooma, Delhi
3. Directorate of Education  
Through its Director  
Govt. of NCT of Delhi  
Old Secretariat, New Delhi
4. The Dy. Director of Education  
East Anand Vihar  
New Delhi – 110 092

..Respondents

(Ms. Sangita Rai and Mr. Pardeep Tomar, Advocates)

## **O R D E R (ORAL)**

Pursuant to the Advertisement of the year 2002 of Delhi Subordinate  
Services Selection Board (DSSSB), inviting applications for various posts of

Teacher, the applicants also applied and were finally selected as Assistant Teacher (Primary). They were issued appointment letters dated 25.06.2004. Copies of their appointment letters dated 25.06.2004 are at Annexure A-3. It is stated that on account of they joining after 01.01.2004, the respondents have refused to cover them under the old Pension Scheme (GPF + pension) and have placed them under the new Pension Scheme, i.e., CPF.

2. The contention of the applicants is that in cases of several other selectees of the same selection process, the appointment letters were issued to them before 01.01.2004 and they could accordingly join before 01.01.2004 and thus got covered under the old Pension Scheme. It is contended that these applicants, for no fault of theirs, were issued appointment letters much belatedly on 25.06.2004, and hence they cannot be discriminated against in the matter of their coverage under the old Pension Scheme.

3. Mr. M K Bhardwaj, learned counsel for applicants submitted that several other selectees, identically placed with the applicants, have approached the Tribunal and have been granted the reliefs prayed for. He further stated that the applicants have placed on record some of the judgments of the Tribunal in this regard. He particularly drew my attention to the order dated 19.09.2014 in O.A. 4467/2013 (**Amit Bharti & others v. North DMC & others**), wherein the facts of the case have been noted-down in paragraph 2, which read as under:-

“2. The brief facts of the case are that when the respondents issued an advertisement on 13.05.2002 for filling up of the post of Assistant

Teacher and various other posts, the applicant applied pursuant to the said advertisement. The respondents declared the results of the general category persons and gave appointments to the said general category candidates in December, 2002 but the applicants appointment was delayed due to pending litigations in the Court, and ultimately, the applicant was appointed as Assistant Teachers in July, 2004. However, the respondents did not give the benefits of pay fixation and old pension scheme benefits as given to his batchmates. It is stated that although some of the similarly placed persons have been accorded the said benefits but in the case of applicant, as the necessary orders were not issued by the Court, he has not been accorded the said benefits. Hence, the present OA.”

He, thus, argued that these applicants should also be granted the same reliefs that have been granted to the applicants in O.A. No.4467/2013 and other similar O.As.

4. *Per contra*, Ms. Sangita Rai, learned counsel for respondents submitted that several selectees of the same selection process had joined the post before 01.01.2004 and were accordingly covered under the old Pension Scheme. Since these applicants did not join before 01.01.2004 and joined on 01.07.2004, they cannot claim the benefits of the old Pension Scheme.

5. Ms. Rai further submitted that in a similar case, the respondents (Services Department, Govt. of NCT of Delhi) have challenged one such order of the Tribunal in W.P. (C) No.838/2016 *titled Govt. of NCT of Delhi & others v. Ajay Kumar & others* and the same is *sub judice*, and as such it would be appropriate to await the outcome of the said case before any order in the instant O.A. could be passed.

6. Mr. Bhardwaj, however, at the Bar, stated that the W.P. (C) No.838/2016 has been dismissed by the Hon'ble High Court yesterday and

he would be placing a copy of the judgment within a couple of days. He further stated that several orders of the Tribunal granting the reliefs prayed for have already been implemented by the respondents.

7. I have considered the pleadings and arguments of learned counsel for the parties.

8. I find that the case of these applicants is squarely covered by the order of this Tribunal in O.A. No.4467/2013 dated 19.09.2014. The Tribunal, in several other O.As., has also taken a view that the date for reckoning the coverage of government officials under the old Pension Scheme or new Pension Scheme should be the date when the selection process was set in motion through which he/she has been selected. In this case, it is crystal clear that the selection process was set in motion in the year 2002 itself and at that time, the old Pension Scheme was in vogue. For this reason also, I am of the view that the applicants deserve to be granted the benefits of old Pension Scheme.

9. In the conspectus, this O.A. is allowed. The respondents are directed to extend the benefits of old Pension Scheme to the applicants. No order as to costs.

**( K.N. Shrivastava )**  
**Member (A)**

**September 14, 2018**  
/sunil/