

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00004/2018**

Thursday, this the 31<sup>st</sup> day of May, 2018

**CORAM:**

**Hon'ble Mr. U. Sarathchandran, Judicial Member**  
**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**

Smt. Rachel Varghese,  
Teacher (Retd.) KVS, Mumbai,  
Kallarackal House,  
Chennithala South P.O., Mavelikkara,  
Kerala – 690 105.

..... **Applicant**

**(By Advocate – Mr. K.V. Bhadrakumari)**

**V e r s u s**

- 1 Union of India, Represented by the Secretary to the Ministry of Human Resources Development,  
Department of Higher Education Public Grievance Section,  
Room No. 231 Ching, Shastri Bhavan,  
New Delhi – 110 001.
- 2 Commissioner,  
Kendriya Vidyala Sangathan (H.Q),  
18, Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi – 110 016.
- 3 Deputy Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, IIT Campus, Powai,  
Mumbai – 400 076.

..... **Respondents**

**(By Advocate – Mrs. P.K. Latha, ACGSC (R1))**  
**Mr. K.I. Mayankutty Mather (R2&R3))**

This Original Application having been heard on 25.05.2018, the Tribunal on 31.05.2018 delivered the following:

**ORDER**

**Per: E.K. Bharat Bhushan, Administrative Member**

1. OA No. 180/4/2018 is filed by Smt. Rachel Varghese retired

teacher of Kendriya Vidyalaya aggrieved by the refusal of the respondents to grant her financial upgradation as claimed. The reliefs sought in the OA are as follows:

- (i) To call for the records leading to the issuance of Annexure A5 order issued by the 3<sup>rd</sup> respondent and to set aside the same as the same is illegal and arbitrary.
- (ii) To issue a direction to the 2<sup>nd</sup> & 3<sup>rd</sup> respondents to grant higher grade and / 2<sup>nd</sup> financial upgradation to the applicant with effect from 20/07/2003 and also to grant the consequential financial benefits to the applicant forthwith.
- (iii) To declare that the applicant is entitled to get higher grade and 2<sup>nd</sup> financial upgradation with effect from 20/07/2003 and she is also entitled to get consequential financial benefits forthwith.
- (iv) To issue any other orders, directions and declaration appropriate in the facts and circumstances of the case.

2. Applicant joined Kendriya Vidyalaya, Mumbai Region as Primary Teacher on 20.07.1979. The first financial upgradation was granted to her w.e.f. 20.07.1991 on completing 12 years of service. She was promoted as Trained Graduate Teacher (TGT) on 18.10.1994. She claims that she had in effect been promoted in 17.09.1992 and the delay in implementation of the said order, due to error on the part of the respondents, resulted in a delay of over 2 years in getting promoted. She was granted Senior Scale w.e.f. 18.10.2006 as per Annexure A1. She claims that she ought to have got the benefit of upgradation on completion of 12 years from 17.09.1992, the date on which she claims that she was due for promotion as TGT.

3. She submits that she has repeatedly represented her case to respondent No. 2 and No. 3 but with no success. Her contention is that she completed 24 years of service on 20.07.2003 and this has been denied by the

3<sup>rd</sup> respondent. The applicant retired from service on 31.10.2006 after completing 27 years and 3 months of total service. Respondents only allowed her Senior Scale w.e.f 18.10.2006 as per order dated 29.04.2016. She pleads the case for inclusion in the Assured Career Progression Scheme (ACP) available to the Central Government Civilian Employees introduced on the basis of recommendations of the 5<sup>th</sup> Central Pay Commission according to which on completion of 24 years of service she ought to get her second financial upgradation or 12 years from the date of the first financial upgradation. She claims that she had completed more than 24 years of regular service “with or without promotion”. She admits that the ACP scheme is not made applicable to the Teachers Staff of the Kendriya Vidyalaya but pleads that the principle contained in the scheme ought to be considered by the 2<sup>nd</sup> and 3<sup>rd</sup> respondents. Again, she strongly contests that it is on account of the delay of more than 2 years in effecting her promotion dated 17.09.1992 (which was implemented only on 1994) that she has suffered.

4. Per contra, the respondents have opposed her contentions. It is stated that the applicant had been appointed as Primary Teacher (PRT) w.e.f. 20.07.1979. The Senior Scale had been granted to her w.e.f. 20.07.1991 in the Primary Teacher Grade. The applicant was promoted to the post of Trained Graduate Teacher (TGT) (Science) w.e.f. 18.10.1994. Thus, she had completed 12 years in TGT scale on 18.10.2006 and it is from this date that Senior Scale has been granted to her vide Annexure A1. She retired from service on 13.10.2006. It is found that she was not eligible for Selection

Scale in PRT or TGT since she had not completed 24 years of service in the same cadre as per the rules stipulated under Annexure A3, which clearly lays down while Senior Scale will be granted for 12 years to PRT/TGT/HM of Primary Schools, the selection scale will be granted after 12 years of service in the senior scale of the respective cadre.

5. The contentions raised by the applicant that her promotion as TGT (Science) which came about w.e.f. 18.10.1994 was in fact supposed to take effect from September, 1992. It is rebutted by the applicant as false. The respondents have acted correctly in granting her Senior Scale when she completed 12 years from the date she was promoted as TGT (Science). It is alleged that the applicant is attempting to mislead the Tribunal by mixing Senior Scale/Selection Scale and Assured Career Progression Scheme. Senior Scale/Selection Scale is restricted to the teaching staff of KVS whereas ACP is available to non-teaching staff of the respondents' organization.

6. Smt. K.V. Bhadrakumari appeared on behalf of the applicant and Smt. P.K. Latha, ACGSC appeared on behalf of respondent No. 1. The dates of actual service of the applicant when she worked in different grades under KVS is available to us in the documents on record. From the same as well as after scrutinizing the concerned Regulations brought out in Government letters such as Annexure A3 it is felt that the employee is claiming the benefits under Senior/Selection grade as well as under the time bound ACP scheme. But it remains a fact that ACP scheme is not available

to the teaching staff of KVS, this position having been affirmed by the Tribunal in OA No. 180/515/2013. Also we see no evidence to support the contentions of the applicant that she was promoted as TGT in September, 1992, a fact denied by the respondents. The applicant ought to have provided evidence of this, rather than loosely referring to it in the OA. She has had one promotion and two financial upgradations in her career and no other benefits appear to be due to her. We conclude that the OA lacks merit and is liable to be dismissed. We proceed to do so. No costs.

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**(U.SARATHCHANDRAN)**  
**JUDICIAL MEMBER**

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**List of Annexures of the Applicant**

**Annexure A-1** - True copy of the order issued by the 3<sup>rd</sup> respondent dated 29.04.2016 granting senior scale to the applicant as item No. 11.

**Annexure A-2** - True copy of the communication dated 29.06.2016 issued to the applicant by the 3<sup>rd</sup> respondent.

**Annexure A-3** - True copy of the order No. F-5-180/86-UT-1 dated 12.08.1987 issued by the 1<sup>st</sup> respondent.

**Annexure A-4** - True copy of the representation submitted by the applicant to the 2<sup>nd</sup> & 3<sup>rd</sup> respondents dated 02.12.2016.

**Annexure A-5** - True copy of the order issued by the 3<sup>rd</sup> respondent dated 03.01.2017.

**Annexure A-6** - True copy of the representation submitted by the applicant before the 2<sup>nd</sup> respondent on 27.01.2017.

**Annexure A-7** - True copy of the office Memorandum dated 29.06.2004 issued by the 1<sup>st</sup> respondent.

**List of Annexures of the Respondents**

Nil.

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