

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 171 of 2012

Reserved on: 08.10.2018

Order pronounced on: 28.11.2018

Between:

T. Basi Reddy, S/o. Late T. Yella Reddy,
Vice Principal, Jawahar Navodaya Vidyalaya,
Veleru, Bapulapadu Mandal, Krishna District – 521 110.

...Applicant

And

1. Union of India, Rep. by its Commissioner,
Navodaya Vidyalaya Samiti,
A-28, Kailash Colony, New Delhi – 110 048.
2. The Deputy Commissioner,
Navodaya Vidhya Samiti,
Hyderabad Region, Sardar Patel Road,
Secunderabad – 500 003.

...Respondents

Counsel for the Applicant ... Mr. K. Sudhakar Reddy

Counsel for the Respondents ... Mr. N. Srinatha Rao, SC for NVS

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***
Hon'ble Mr. Swarup Kumar Mishra ... ***Member (Judl.)***

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OA is filed for non grant of Higher grade pay of Vice Principal of Rs.6600 with effect from 3.7.2008.

2. Brief facts of the case are that the applicant has joined the Navodaya Vidyalaya Samithi as PGT (Post Graduate Teacher) on 29.7.1991. The applicant was granted senior scale in the pay scale of Rs.7500-250-12000 on 29.7.2003. He was promoted on 3.7.2008 as Vice Principal and the pay was fixed as

Rs.18,810 + Grade Pay (G.P) Rs.5400 vide lr dt 6.7.2009. The applicant's grievance is that the respondents have not granted the grade pay of Rs.6600 on promotion as per Fundamental rule 22 (1)A (1) / Rule 13 in 6th CPC scale and hence the OA.

3. The contentions of the applicant are that the fixation of pay on or after 1.1.2006 has to be done as per clause 13 of Dept. of Expenditure notification dt.29.8.2008 and as per FR 22 (I) A (1). Further a Primary Teacher after 12 years of service in the grade of Rs.5500-9000 getting promotion as head master (Primary) in the identical scale of Rs.5500-9000/- is entitled for fixation under FR 22 (I) A 1 as per the clarification letter received from MHRD vide letter No. 78/203-UT-1 dated 15.09.2005, Min of HRD. For teaching staff, there are two financial upgradations after 12 and 24 years of service as per V Pay Commission and also as per VI Pay Commission pay scales their pay will be regulated as per FR 22 1(A)2 Rule. At the time of promotion from senior scale PGT to Vice Principal in V CPC the pay fixation was regulated as per FR 22 1(A) 1 rule to all the promotee teachers in NVS and KVS before 1.1.2006. After 1.1.2006, at the time of promotion from a Senior Scale PGT to Vice Principal in VI Pay Commission also, the pay fixation is to be regulated as per FR 22 I (A) (1) Rule - 13. Vice Principal post is promotional post only. It has two grade pay scales. Comparison between FR 22 I (A) 1 and FR 22-1(A) 2 Rule in V CPC and VI CPC pay scales applicable for teachers on grant of Senior Scale/ Selection Scale or Grade 2 and Grade 1 Scale after 12 years / 24 years service or promotion from entry scale/ Senior Scale/ Selection Scale or Grade -3/ Grade-2/ Grade-1 Scale is as under:

| Rule | Vth CPC pay scales | | VI CPC Pay Scale | |
|------------------|---|---|---|--|
| | Senior Scale/ Section scale after 12/24 years service | On promotion from entry scale/ senior scale | Grade 2 scale/ grade 1 scale after 12/24 years service | On promotion from grade 3 scale/ grade 2 scale |
| FR 22 I (A) 1 | Not applicable | Applicable | Not applicable | Applicable |
| FR 22 I (A) 2 | Applicable | Not applicable | Applicable | Not applicable |
| | Equal stage or next stage. No increment in FR 22 I (A) 2 rule. No higher responsibilities | One lower scale increment + next stage in the promotional scale in FR 22 I (A) 1 rule. Higher responsibilities | No change of the pay in the pay band, but only given grade 2/ grade 1 scale grade pay after 12 years/ 24 years service in FR 22 I (A) 2 rule. No higher responsibilities | One increment @ 3% on the sum of pay in the pay band + grade pay of the present post and next higher grade pay of the promotion post to be given in FR 22 I (A) 1 rule. Higher responsibilities. |

The pay of K. Basivi Reddy, working as Vice Principal at JNV, Khargone, MP was regulated under FR 22 I (A) 1 Rule by NVS (RO), Bhopal. The applicant made representations on 5.11.2009, 06.01.2010, 22.09.2010 and on 29.09.2011, which were not considered and rejected by the respondents vide F. No. 9-144/2011-NVS(HR) Estt.I/5790 dt. 02.01.2012.

4. Respondents submit that the OA is not maintainable either on facts or on law. The applicant was granted senior scale in the cadre of PGT w.e.f. 29.07.2003 as per Order No. 1-71/NVS/(HR)/2004 dt.30.04.2008 and subsequently he was promoted to the cadre of Vice Principal w.e.f. 3.7.2008 which has the same grade pay of Rs.5400/- in the pay band of Rs.15,600-39,100 as per the VI CPC report and his pay was fixed at Rs.16,700 + 5,400 Grade Pay. Therefore, the claim of the applicant for grant of higher grade pay of Rs.6,600/- does not arise and it can be granted only when the applicant completes 12 years of service in the Vice Principal cadre carrying the pay band of Rs.15600+39100

with grade pay of Rs.5400/-. It is submitted that Rule 13(1) of VI CPC notification deals with fixation of pay on promotion on or after 01.01.2006. The rule is extracted hereunder:

“One increment equal to 3% of the sum of the pay in the pay band and existing grade pay will be computed and rounded to the next multiplier of 10. This will be added to the existing pay in the pay band. The grade pay corresponding to the promotion post will thereafter be granted in addition to this pay in the pay band. In cases where promotion involves change in the pay also, the same methodology will be followed. However, if the pay in the pay band after adding the increment is less than the minimum of the higher pay band to which promotion is taking place, pay in the pay band will be stepped to such minimum.”

In view of the above clarification, it can be seen that the pay + grade pay of Vice Principals is same as of senior scale of PGT and there is no change in the grade pay too. Therefore, the applicant will get selection scale only when he completes 12 years of service in the senior scale of respective cadre (i.e. PGT) subject to the fulfilment of conditions as laid down in the Govt. of India, Min. of HRD OM No.5-180/86 UTI dt. 12.08.87, Samiti's Circular No. 2-115/99-NVS(Estt) dt. 06.11.2000 & dt. 31.05.2002. The applicant is not eligible for higher grade pay of Rs.6600/- since he has not completed 12 years of service in the senior scale of the respective cadre of PGT. Therefore, the applicant was given one increment @ 3% + Rs.5400/- Grade Pay at the time of his promotion as Vice – Principal and the same cannot be faulted as the fixation of pay was as per rules.

5. Heard the learned counsel. Their arguments are in tandem with the written submissions made.

6. The applicant was granted Senior Scale in the cadre of PGT w.e.f. 29.07.2003 with grade pay of Rs.5400/-. Thereafter, he was promoted to the post of Vice Principal which carries the same grade pay of Rs.5400/-. On promotion he was given a 3% hike in the pay. The promotion is horizontal within the grade pay of Rs.5400/- and not vertical to the next higher grade pay of Rs.6600/-. The Vice Principal cadre has two grade pays viz., Rs.5400 in entry grade and Rs.6600 in Senior scale which is granted on rendering 12 years service in the entry grade as per Memo. F.No.2-119/99-NVS(Estt) dt. 31.05.2002 of the respondent organization . Rule 13(1) referred to by the applicant, elaborated in M.O.F. OM dt. 13.09.2008 is applicable when the promotion is effected from one grade to another in the revised pay structure. In the present case, the promotion is in the same grade pay and therefore, Rule 13(1) does not come to the rescue of the applicant. Similarly, the applicability of FR 22 (1)(A)(1) comes into play when there is a movement from lower to a higher scale of pay. Here, the applicant, as explained has got promotion in the same grade pay of Rs.5400/. Therefore, FR 22(1)(A)(1) does not apply to the applicant's case.

7. The applicant submitted the Hon'ble Ernakulam bench judgment in OA No. 180/00501/2017 dt.12.06.2018 in support of his contention. However, in the cited case, PGT teachers who worked for more than 12 years in the senior scale claimed for the next higher selection grade and they were accordingly granted. We agree with the Hon'ble Ernakulam Bench judgment. In the present case, the applicant has to complete 12 years in the entry grade of Rs.5400 in Vice Principal post to be eligible for the next Senior scale grade of Rs.6600, even as per cited judgment and as per rules. The applicant has also claimed that the pay of Mr. K. Basivi Reddy working as Vice Principal at Khargone, MP was

regulated as per FR 22 (I)(A)(1). However, the applicant has not filed any order copy to that effect as evidence to examine and consider. Respondents counsel also denied the same. Applicant's passing reference to primary teachers is not relevant as the respondents claim that there is no such cadre in the respondents organization. Rules are framed for each cadre based on many factors. It is to be seen as to whether the rule framed in the present case is violated. As seen from the facts it is not. Till the rules are amended by the respondents, the applicant does not stand a chance. The Hon'ble Apex Court has held that "the *Court cannot de hors rules*" vide judgment reported in (2007) 7 SCJ 353.

8. Therefore, based on facts and rules cited above, the applicant has not made out a case, for this Tribunal to intervene on his behalf. Hence, the OA is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 28th day of November, 2018

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