

**Central Administrative Tribunal
Principal Bench**

OA No.2205/2013

New Delhi, this the 16th day of May, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Krishan Kumar
S/o Shri Om Prakash
Working as TGT Social Science
Jawahar Navodaya Vidyalaya
Mungeshpur,
New Delhi 110 039.

.... Applicant.

(By Advocate : Shri A. K. Trivedi)

Vs.

1. Navodaya Vidyalaya Samiti
Through its Commissioner
B-15, Sector-65,
Noida (UP).
2. The Joint Commissioner (Admin)
Navodaya Vidyalaya Samiti
B-15, Sector-62, Noida (UP).
3. Shri Vijay Sharma, TGT (Math)
NVS, Shillong Region.
4. Shri Vipul Chaturvedi, TGT (Math)
NVS, Shillong Region.
5. Shri D. P. Singh, TGT (S.St)
NVS, Shillong Region.
6. Shri Bijoy Kumar, TGT (S.St)
NVS, Shillong Region.

.... Respondents.

(The service upon Respondent Nos.3 to 6 to be effected
through Respondent No.2)

(By Advocate : Shri S. Rajappa)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman:**

The applicant was appointed as a Trained Graduate Teacher (TGT) in Navodaya Vidya Samiti (NVS), the 1st respondent herein, and was posted in Chandigarh region. He worked for some time in the State of Jammu & Kashmir, within the region, and in 1996 he was transferred to Delhi region on his request. In the context of promotion to the post of Post Graduate Teacher (PGT), the applicant felt aggrieved on account of the fact that some TGTs, who are relatively junior to him were promoted, and his service in the Chandigarh region, was not taken into account.

2. The applicant filed OA No.2481/2004 before this Bench. He claimed seniority from the date of his joining the organisation. The OA was disposed of on 13.12.2006 with a direction to consider the prayer of the applicant, keeping in view, the cases of two Teachers occurring at Sl. Nos.14 & 18 of the order dated 13.06.2001. In compliance with the directions, the respondents passed order dated 07.08.2007. Challenging the said order, the applicant filed OA No.2225/2007. That was disposed of on 09.09.2008 with certain directions. Aggrieved by that, the respondents filed W.P. (C) No.624/2009. The order passed by the Tribunal in OA No.2225/2007 was set aside and the matter

was remanded with certain directions. After such remand, the Tribunal allowed the OA and has set aside the order dated 07.08.2007. It was also directed that one Mohd. Abutaleb who was promoted as PGT shall be issued notice and appropriate steps be taken after hearing him.

3. In compliance with the directions issued by the Tribunal, the respondents passed an order dated 25.10.2010. In the order, it was mentioned that Mohd. Abutaleb was initially in the Shillong region, and was transferred on his request to Patna region. It was also stated that by mistake, his service in Shillong Region was added to the service in Patna Region, in the context of promotion to the post of PGT and accordingly, reverted him. It was mentioned that the reversion of Mohd. Abutaleb does not change the situation vis-a-vis the applicant, and he cannot be extended any relief. The said order is challenged in this OA.

4. The applicant contends that once he worked in the hard station in Jammu & Kashmir Region, he is entitled to count his service, even under Delhi Region and the respondents have denied him the benefit, without any justification. Other allied grounds are also pleaded.

5. On behalf of the respondents, it is pleaded that once the applicant got transferred from Chandigarh Region to Delhi Region, he lost his seniority in the Chandigarh region and this aspect was made clear in the order dated 11.07.1996.

6. We heard Shri A. K. Trivedi, learned counsel for the applicant and Shri S. Rajappa, learned counsel for the respondents.

7. This is the 3rd round of litigation for the applicant. For one reason or the other, the basic facts were not addressed and the repeated directions issued did not bring about finality to the issue. The undisputed facts are that the applicant was appointed as TGT in the year 1993 in NVS, in Chandigarh Region. During his tenure in that region, he worked in Leh Laddakh, a hard Station. The rules framed by the respondents provided incentives to the persons who are posted in hard Station, such as North Eastern Region or Jammu & Kashmir. An important aspect to be taken into account is that J&K is a part of Chandigarh Region.

8. The posting of the applicant would have entitled to him to choose a place of his choice within Chandigarh Region. However, on completion of the tenure in the State

of Jammu & Kashmir, the applicant made a request to transfer him to Delhi Region. It is not an ordinary transfer and is the one to a different Unit of appointment. Acceding to his request, the respondents passed an order dated 11.07.1996 transferring the applicant to Delhi Region along-with some other candidates.

9. It is axiomatic that whenever an employee moves from one Unit of appointment to another, on request he has to take the place in the bottom of the seniority in the Unit to which he is transferred. Obviously for this reason, the respondents incorporated the following condition in the order dated 11.07.1996:-

“As per the undertaking given by each individual the above mentioned officials will have to loose their seniority in the grade maintained by the respective ROs and will have to reckon their seniority in the grade being maintained by the ROs where they are transferred from the date of joining at the new places of posting.”

From this, it becomes clear that the applicant has to take the last place in the seniority of TGTs in Delhi Region. If he had any reservation or objection about this, he had a choice, either to refuse the transfer or to challenge the condition. He did neither, and joined Delhi Region without any demur.

10. In the context of promotion to the post of PGT, the applicant went on making claims, for counting his service

in Chandigarh Region. For this purpose, he has drawn analogy of the case of Mohd. Abutaleb. In the case of latter, his service in the Shillong Region where he was appointed and the Patna Region to which he was transferred, were counted and on the basis of the combined seniority, he was promoted to PGT. This Tribunal directed the respondents to issue notice to Mohd. Abutaleb, and take necessary steps. The impugned order discloses that Mohd. Abutaleb was issued notice, and the mistake and anomaly in his promotion was corrected by reverting him. That, however, did not enure to the benefit of the applicant. There is no way, that he can claim seniority in Chandigarh Region in the context of promotion to the post of PGT. It is a different matter that he can count that service for the purpose of getting eligibility. However, he has to take his turn, depending on his place in the seniority in Delhi Region.

11. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/