

(V)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1016/2003

Monday, this the 12th day of January, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

Smt. Sneh Prabha wife of late Shri R.P.Gupta
aged about 52 years
r/o AG-118, Shalimarbagh
New Delhi-88

Working as Trained Graduate Teacher (TGT) Sr. Scale
in Directorate of Education Government of NCT of Delhi
..Applicant
(By Advocate: Shri B.S.Mathur)

Versus

Government of Delhi

through

1. Secretary
Ministry of Education
Govt. of NCT of Delhi
Old Secretariat
Delhi-54
2. Director of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi-54
3. Dy. Director of Education
Govt. of NCT of Delhi
District North West (A)
Hakkikatnagar
Delhi
4. Vice Principal
Govt. Sarvodaya Co-Ed Vidyalaya
New Police Lines (Kingsway Camp)
Delhi-9
5. Secretary (Services)
Govt. of NCT of Delhi
Players Building, Secretariat
Near ITO Crossing, Delhi

.. Respondents

(By Advocate: Smt. Renu George)

O R D E R (ORAL)

Justice V.S.Aggarwal:

The applicant, by virtue of the present application, is seeking the reliefs, namely, to release her salary from 29.1.1997 to 9.8.2000, fix her salary as

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per recommendations of 5th Central Pay Commission from 1.1.1996 and grant her increments from 1996 till date with time bound payment of all arrears with interest.

2. It becomes unnecessary for us to ponder in detail about the controversy. The reason being that learned counsel for the respondents pointed that from January, 1997 to 9.8.2000, the applicant had mainly absented from duty, except for just a few days when she came and attended her place of posting. Pertaining to that, a departmental action has been initiated against the applicant and thereupon not only the question of penalty shall be decided, but the question of regularising or taking the appropriate action with respect to the period for which she had absented, shall be also be decided.

3. In face of this fact, that has been so mentioned, we do not express ourselves on the merit of this controversy. This can only be ~~ranked-up~~ ^{settled} after the disciplinary proceedings are completed.

4. However, learned counsel for the applicant pointed that irrespective of that as per due and drawn statement filed by the respondents, Rs.118385/- are due to the applicant and that should be directed to be paid to the applicant.

5. Learned counsel for respondents opposed the said request contending that this amount is of the period, referred to above, which is in controversy and, therefore, it should not be paid to the applicant.

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6. In this regard, we find ourselves unable to agree with the submissions made at the Bar by the respondents. Reasons are obvious and not far to fetch.

7. In the due and drawn statement filed by the respondents, copy of which is at Annexure R-1, in the beginning of page 1, there is a foot note which clearly indicates "due-drawn statement for disputed period from 29.1.1997 to 9.8.2000 not prepared". It has clearly been mentioned by the respondents that the remaining period as claimed by the applicant in her OA is to be decided only after the outcome of the disciplinary proceedings against the applicant.

8. Even in the additional affidavit filed on behalf of the respondents, the respondents have pleaded:-

"It is however submitted that as per the due and drawn statement duly submitted by the respondent it has shown the due amount since 1.1.1996 to 28.1.1997 and 10.8.2000 to 31.8.2003 which is worth Rs. 1,18,385/- only is to be paid by the department, the remaining period as claimed by the applicant in her O.A. is to be decided only after the outcome of the disciplinary proceedings which are under process against the applicant. It will be relevant to put on record that a show cause notice has been served to the applicant and the inquiry officer and presenting officer has been appointed to conduct the inquiry in respect of the applicant hearing. Copy of appointment letter of enquiry officer & P.O. is annexed herewith alongwith the copy of memorandum / show cause notice dated 1.9.2003 with the statement of the charges and other relevant papers for this Hon'ble Courts consideration."

9. In the due and drawn statement, it is admitted that Rs. 118385/- is due to the applicant.

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10. The settled position in law is that the admitted facts need not be proved. Once the amount is due, the same should be remitted to the applicant rather than kept by the respondents.

11. Resultantly, we direct the respondents while disposing of the present application:-

a) the admitted amount of Rs.118385/- should be remitted to the applicant within three months from the date of receipt of a certified copy of this order. In default, the respondents would be liable to pay interest @ 6% p.a. on the said amount, till the amount is paid.

(12). Pertaining to the other controversy, since disciplinary proceedings have been started, no opinion, as for present, is expressed, leaving the parties to bear their own cost.

S. K. Naik
(S. K. Naik)
Member (A)

V. S. Aggarwal
(V. S. Aggarwal)
Chairman

/sunil/