



CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1676/2003

New Delhi this the 13th day of April, 2004.

Hon'ble Sh. Shanker Raju, Member(J)

R.S. Bisht,
Working as Lecturer (sculpture)
(senior scale),
College of Art,
20-22, Tilak Marg,
New Delhi. Applicant

(through Sh. Arun Bhardwaj, Advocate)

Versus

1. Chief Secretary,
G.N.C.T. of Delhi,
Delhi Sectt., I.P.Estate,
New Delhi.
2. Pr. Secretary,
G.N.C.T. of Delhi,
Directorate of Training
and Technical Education,
Muni Maya Ram Marg,
Pitampura,
Delhi-88.
3. The Principal,
College of Art,
20-22, Tilak Marg,
New Delhi. Respondents

(through Sh. George Paracken, Advocate)

ORDER (ORAL)

Heard the learned counsel for the parties.

2. Through this O.A. applicant seeks counting of service rendered in aided recognised school of Government of N.C.T. of Delhi i.e. Sarda Ukil School of Art towards qualifying service for the purpose of pensionary benefits.

3. By referring to Government of India,
Ministry of H.R.D., Department of Education



Notification dated 25.2.1988 it is stated that Government of N.C.T. has been directed to count the service rendered in government recognised aided school for the purpose of pension. Moreover, a reference has been made to H.R.D. Ministry's O.M. dated 12.7.1988 as well as OM dated 19.4.99 wherein it is directed that the service rendered in aided school would count for pensionary benefits.

4. Learned counsel Sh. Bhardwaj refers to an order dated 4.3.02 passed by the Government of N.C.T.D. where a similar circumstance teacher who had rendered service in government aided school, his services have been counted for the purpose of pensionary benefits. He claims for a similar treatment and assails the inaction of the respondents as violative of Articles 14 and 16 of the Constitution.

5. On the other hand, learned counsel for respondents refers to Rule 14(1) and (2) of the CCS(Pension) Rules and contends that service in a non-pensionary establishment cannot be reckoned towards qualifying service and the rules cannot be over ridden by administrative instructions.

6. On careful consideration of the rival contentions of the parties, we find that as per Rule 14(1) and (2) ibid that the service at non pensionary establishment is not qualifying service.

7. However, in the light of Ministry of H.R.D. notification ibid whereby such consideration has been made by the government where service rendered in unaided school has to be counted. The aforesaid supplements the Rules.

8. As per Rule 14(2) ibid if the government decides to treat the qualifying service like in the present case the H.O.D. decided to count service of aided school towards qualifying service, the service of the applicant would be qualifying for the purpose of pension. We also find invidious discrimination as similarly circumstanced teacher working in the recognised school his services have been reckoned as qualifying service whereas depriving the applicant of the same treatment offends of principal of equality and would amount to creation of the class within the class which cannot be countenanced in view of Articles 14 & 16 of the Constitution of India.

9. In the result, O.A. is allowed. Respondents are directed to count the service rendered by the applicant in government aided school towards qualifying service for the pensionary benefits. However, we make it clear that this will not preclude the respondents from verifying the service of the applicant in which event the applicant should give full cooperation.

S. Raju
(Shanker Raju)
Member(J)