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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 2092/2003

New Delhi this the 18th day of March, 2004

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

1. Gaje Singh,
S/o Shri Har Phool Singh,
R/o H. No. 381, Gali No.7,
Durga Puri Extension,
Shahdara,
Delhi.
2. Ram Pal Singh
S/o Shri Baljeet Singh,
R/o A-6/518, East Gokal Puri,
Shahadra,
Delhi. Applicants.

(By Advocate Shri U. Srivastava)

Versus

Union of India through

1. The Secretary,
Govt. of NCT Delhi,
5, Sham Nath Marg,
New Delhi.
2. The Director of Education,
Directorate of Education,
Delhi Administration,
Old Secretariat,
Delhi.
3. The Joint Director of Education (Admn.),
Director of Education, Govt. of NCT Delhi,
Old Secretariat,
Delhi. Respondents.

(By Advocate Shri George Paracken)

O R D E R (ORAL)

Hon'ble Shri S.K. Naik, Member (A).

By virtue of the present application, the applicants two in number S/Shri Gaje Singh and Ram Pal Singh, seek a direction from the Tribunal to the respondents to grant them the selection grade by counting their period of service from the date they have been

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working in the pay scale of Rs.1400-2600 which was subsequently revised to Rs.5500-9000.

2. The brief facts of the case are that both the applicants joined the service of the Municipal Corporation of Delhi. While applicant No.1 Shri Gaje Singh joined on 31.8.1976, Shri Ram Pal Singh applicant No. 2 joined the same on 29.11.1976. They were, however, granted the selection grade of Assistant Teacher together w.e.f. 1.4.1982. The scale of the selection grade was in the pre-revised scale of Rs.530-630 which was subsequently revised to Rs.1400-2600. The applicant No. 1 was later promoted as Trained Graduate Teacher (TGT) on ad hoc basis in the Directorate of Education of the Govt. of NCT, Delhi. Against the promotion quota of Assistant Teachers, he joined as TGT on 15.12.1988 initially on ad hoc basis but subsequently regularised vide order dated 19.9.1995 with effect from his original date of joining i.e. 15.12.1988. When he exercised his option under the Fundamental Rules, his pay was fixed at Rs.1950/- w.e.f. 15.12.1988 and Rs.2050/- as on 1.4.1989.

3. In so far as the applicant No. 2 was concerned, he was promoted as TGT much later ~~on the~~ ^{to} ~~applicant No. 1~~ on 7.4.1992 and his pay was fixed as TGT at Rs.2200/- per month in the similar scale of pay of Rs.1400-2600.

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4. Both the applicants are now claiming that the said fixation of pay was not in conformity with the Rules and that they have been wrongfully fixed. According to them, they were entitled to a fixation of the pay in the pay scale of Rs. 1640-2900 as they were already working in the pay scale of Rs. 1400-2600 and thus were entitled to the next higher grade of pay i.e. Rs. 1640-2900. While the applicant No. 1 had submitted his representation in the matter, no such representation had been filed by the applicant No. 2. Representation of applicant No. 1, however, had been rejected by the official respondents, on the ground that he had not completed 12 years of service in the relevant grade which was a pre-requisite for the admissibility of fixation of pay in the higher grade as per instructions contained in O.M. No. F.5-180/86-UTI dated 12.8.1987 as further clarified by the O.M. dated 3.11.1987 issued by the Ministry of Human Resource Development, Govt. of India.

5. The main contention of the learned counsel for the applicants is that since the applicants were already in the scale of pay of Rs. 1400-2600 w.e.f. 1.4.1982 while they were working with the M.C.D. and that they were appointed with the Govt. of NCT of Delhi in the same pay scale, they would be entitled to the next higher scale of pay on completion of 12 years of service from the date they were appointed in the pay scale of Rs. 1400-2600. Elucidating the point, the learned counsel for the applicants had stated that since both the

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applicants were appointed to the selection scale of the Assistant Teacher in the grade of Rs.1400-2600 w.e.f. 1.4.1982, they would be entitled to the next higher grade in the pre-revised scale i.e. Rs.1640-2900 after completion of 12 years from that date, which would mean that they would be entitled to the higher scale w.e.f. 1.4.1994. Interestingly, the learned counsel has relied upon the same instructions of the Govt. of India dated 12.8.1987 and 3.11.1987 based on which the respondents have themselves rejected the claim/representation of the applicant No.1.

6. The respondents have contested the O.A. Their counsel has contended that the applicant No. 1 was granted senior scale w.e.f. 1.4.1982 and was promoted as TGT on 15.12.1988. The question of granting him selection grade after 12 years from 1982, therefore, did not arise. He has further submitted that the applicant No. 1 on completion of 12 years of service from his date of promotion to TGT, which was 15.12.1988, has already been given the selection grade w.e.f. 14.12.2000. Relying again upon the instructions of the Govt. of India, the counsel has drawn our attention to the Scheme envisaged therein and has contended that the selection grade is to be granted after 12 years of service in the ^{by each} senior selection of the respective cadres, namely, Primary School Teachers cadre, TGT's cadre and Post Graduate Teachers cadre. The Scheme further envisages that not every one but only 20% of the respective cadres

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would be eligible for the grant of selection scale. In the case in hand, the applicant No. 1 having completed 12 years of service as TGT w.e.f. 15.12.1988 has already been given the higher scale w.e.f. 14.12.2000 and his pay has been rightly fixed. With regard to the applicant No. 2, since he was promoted as TGT w.e.f. 7.4.1992, he had not completed 12 years of service thereafter and, therefore, is not entitled to the same. It has also been stated by the respondents that he would be duly considered for the grant of the higher scale on completion of 12 years of service provided he falls within the 20% eligible category. The counsel, therefore, has contended that the application has no merit and should be dismissed.

7. We have heard the learned counsel for both the parties and also have perused the record of the case. We find that the entire dispute in this O.A. hinges on the interpretation of the clarification contained in O.M. dated 3.11.1987 of the Ministry of Human Resource Development, Govt. of India. Point No. 6 thereof on which both the sides have placed their reliance reads as under:

"What will be the manner of fixation of pay in the case of those promoted from senior scale or selection scale to the next higher grade?

Persons who get promotion from senior scale will be kept in the basic scale of the higher scale but the persons already in the selection scale cannot be fixed in the basic scale of the higher post because the latter is lower than the normal. Therefore, those in the

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selection scale will be fixed in the senior scale or the next higher grade on promotion and pay fixed in the scale.

8. As would be apparent from the clarification against the question as to what will be the manner of fixation of pay in the case of those promoted from senior scale or selection scale to the next higher grade, the answer offered is that the persons who get promotion from senior scale will be kept in the basic scale of the higher scale but the persons already in the selection scale cannot be fixed in the basic scale of the higher post. In the case in hand, the applicants were in the senior scale in the category of Primary School Teachers i.e. Rs. 1400-2600 when they were promoted to the higher category of TGTs. The scale of pay of the TGTs is also Rs. 1400-2600. Thus, as per the clarification, their pay will be fixed in the pay scale of the higher category i.e. TGT which is Rs. 1400-2600. While it may look as if the promotion in the same scale would have no relevance, the respondents have stated in their reply that the applicant has been given the benefit of FR 22 (1) (a) (1). His pay, therefore, has been rightly fixed in accordance with the Rules. We tend to agree with the contention of the learned counsel for the respondents.

9. With regard to the claim of the applicants that their past service in the MCD should be counted for the purpose of counting the 12 years of service, the same would have no relevance as under the Scheme of revision of

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pay scale of School Teachers as envisaged in the memo dated 12.8.1987, there must be a period of 12 years for being eligible to the senior scale and further another 12 years for being eligible for the selection grade but when a person is promoted to the next higher category while being either in the senior scale or in the selection grade to the lower category, his pay would be fixed in accordance with the clarification provided in the memo dated 3.11.1987. The respondents in this case have considered the date of promotion to the post of TGT as the date from which the period of 12 years counts which is in accordance with the clarification. We thus find no irregularity in the matter. Under these circumstances, the O.A. being devoid of any merit is dismissed with no order as to costs.

7 Oct 88
(S.K. Naik)
Member (A)

'SRD'

VS Agarwal
(V.S. Agarwal)
Chairman