

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI**

O.A. NO. 2695/2003

NEW DELHI THIS THE 8<sup>TH</sup> DECEMBER 2004

**HON'BLE SHRI JUSTICE V. S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A. SINGH, MEMBER (A)**

Dr. Dinesh Kumar Paliwal,  
Deputy Educational Adviser,  
Department of Elementary Education & Literacy,  
Ministry of Human Resource Development, Government of India,  
Shastri Bhawan, New Delhi 110 001

.....Applicant

(By Advocate: Shri K B S Rajan)

**VERSUS**

1. Union of India through  
Secretary, Department of Secondary and Higher Education,  
Ministry of Human Resource Development,  
Government of India, Shastri Bhawan, New Delhi – 110 001
2. Secretary, Department of Elementary Education and Literacy,  
Ministry of Human Resource Development,  
Government of India, Shastri Bhawan, New Delhi- 110 001

.....Respondents.

(By Advocate: Shri N K Aggarwal)

**O R D E R (ORAL)**

**BY HON'BLE SHRI S.A. SINGH, MEMBER (A)**

The applicant who was appointed as Assistant Education Advisor (General) on 12.11.1992 has filed this OA against the impugned order dated 12.3.2003 rejecting his claim for counting of his past service of 11 years rendered in Kishan Lal Public (KLP) College, Rewari towards pensionary benefits on the plea that this college was a autonomous body within the definition of rules.

2. The applicant earlier filed OA 490/1996 which had been disposed with the following observations:

“5. In the instant case, the applicant has come from Kishan Lal Public College from the State of Haryana. The learned counsel for the applicant avers that it is an autonomous Body as it fulfils the various conditions for being treated as an Autonomous Body as stipulated under the Mobility orders dated 29.8.1994 . This college is getting grants towards salaries to the

extent of deficit. A perusal of the accounts of the College shows that the college has been getting at least two third of its expenditure from the state Government towards meeting the expenditure on salaries. Thus the first condition for being an Autonomous Body is being fulfilled by this college. Our attention has been drawn to a reply from the said college (Annexure R-12 of the counter) wherein it has been clarified that the state Government meets 85% of the total salary bill of the college. On the recommendations of the Central Government, the State Government announces D.A. to the employees on the central Government's DA pattern which is implemented by the college for its employees. According to us, since major conditions regarding the grants being given by the State Government of more than 50% of the requirements of the college is fulfilled, we see no reason why the applicant should be denied the benefit of his service in the college for purposes of pension.

6. We are of the view that *prima facie*, the applicant has a very strong case. We, therefore direct the Central Government to consider the request of the applicant afresh in the light of the observations made by us. The applicant may be given an opportunity of being heard, if he so desires. This may be done within a period of six months."

3. In compliance to the directions of the Tribunal the respondents have passed the impugned orders and rejected the claim as under:

"The issue hinges on whether KLP College, Rewari (Haryana) can be considered to be an autonomous organization as required under Government Rules for the counting of past service rendered by Dr. Paliwal for pensionary benefits under the Central Government. The following relevant facts clarified this issue:

i) In order to be an autonomous body for the purpose of counting of past service rendered there for pensionary benefits under the Central Government, the concerned institution must be a Society registered under the Societies Registration Act, 1860 or a body created by Statute or a Central university having its own Governing Council. KLP College, Rewari, is none of these.

ii) Further, in continuation with (i) above, such an autonomous organization should have provision in Memorandum of Association/ By laws, etc. of its governing council for complying with Government directives for carrying out its business in achieving the objectives for which the organization is established. KLP College, Rewari, is run by the "Public Education Board, Rewari", which is a society registered under Societies Registration Act, 1860. There are no provisions in the Memorandum of Association of this society.

iii) The authorities of KLP College, Rewari have informed that their college is not an autonomous body.

iv) Government of Haryana has also informed that KLP College, Rewari, is neither an autonomous body nor can be treated as an autonomous body.

4. In light of these views, the said KLP College, Rewari (Haryana) cannot qualify as an autonomous organization for the purposes of counting of past service of Dr. Paliwal for pensionary benefits under the Central Government.

5. As stated in para 3 above, counting of past service of Dr. Dinesh Kumar Paliwal rendered at KLP College, Rewari is dependent on the college being an autonomous organization as defined under various rules of the Government. Neither does the College qualify to be called an autonomous organization nor does the college consider itself to be such an organization as stated by them."

4. It is the contention of the applicant that KLP College Rewari is a autonomous body in terms of the provision in GOI orders No.28-10/84-Pension Unit dated 29<sup>th</sup> August 1984, No. 28(10)/84-P.& P.W./Vol. II dated 7.2.1986, 17.6.86, 30.10.1986 and 20.3.1986. Moreover the respondents have granted benefits of pay protection to the applicant thereby acknowledging that KLP College is autonomous body of Government of Haryana. The KLP College is also affiliated to Maharishi Dayanand (M.D.) University which is recognized under section 2 f) of UGC Act. The UGC in its letter dated 28.8.93 has clarified that Lecturer of Private College affiliated to University may be treated as full fledged employee hence act of the respondent in not granting the same is incorrect and the case is to be accepted on merit.

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5. We have heard the counsel for the parties and gone through the documents brought on record. We find that the short question is whether KLP College, Rewari would come under the definition of autonomous organization for being covered under the said Government of India Rules for counting of past service. The case of the applicant is that the instructions for giving pay protection and counting of past service cannot be different. The respondents have already given him pay protection thus logically the benefit of past service has to be given. The respondents contested this claim stating that the applicant was not entitled for pay protection but the Government, keeping in view the interest of the academic community, particularly those joining Government service from a private college decided to extend the benefit of pay protection as a special case as provided in the OM dated 7.8.89. Hence giving pay protection as a special case does not make the applicant eligible for counting of his past service also. DoPT Memo. Dated 29.8.1984 read with OM dated 7.2.1986 regulate the counting of past service rendered by employees in State Governments or Central/State Governments. These guidelines commonly known as "Mobility Orders", give the benefit of counting of past service in four cases of mobility, i.e., mobility between (i) Central Government (ii) State Government (iii) Central Autonomous Body and (iv) State Autonomous Body.

6. The meaning of autonomous body under the Central Government had been defined in para 4 of the OM dated 29.8.1984 and has been elaborated in Department of Pension & Pensioners' Welfare OM dated 31.3.1987.

7. The applicant according to the respondents has failed to establish that the conditions laid down in this OM are fulfilled by KLP College and that it should be treated as an autonomous body of the State Government or to establish that the College has been declared autonomous body of the State Government either by State Legislative or Parliament or otherwise.

8. Further, KLP College authorities have intimated that they are only re-imbursed 95% of the deficit of the expenditure on salaries after deducting the income accrued to the college through fees etc. The college is thus not considered to be an autonomous body by the State of Government of Haryana because the quantum of grant is not more than 50% of the total expenditure.

9. The respondents also placed on record (R-12) copy of the communication from the college dated 31.3.1992 and letter of State Government of Haryana confirming that the college is neither an autonomous body nor can it be treated as an autonomous body. The letter of the KLP College Rewari has categorically stated that it was not an autonomous organization though it was affiliated to MD University Rohtak. The letter from Higher Education Commissioner, Haryana Chandigarh reads as under:

“Reference your office letter No. 18011/1/96.E.I dated 18.6.2001 on the subject cited above.

I am directed to inform you that KLP College Rewari is neither an autonomous body nor can be treated as an autonomous body.”

10. From the above we find that KLP College Rewari has not been treated as Autonomous body by the Government of Haryana and the same has been confirmed by the Principal of the College. Despite these averments the Tribunal would have to satisfy itself whether KPL College Rewari fulfils the conditions for being treated as an autonomous body as per stipulation in the OM dated 31.3.1987 of Govt of India Deptt of Pension and Pensioners Welfare. The relevant para (no. 5) of this OM reads as under:

“5. For the purpose of these orders, a Central autonomous Body is generally a non-profit making organization which is financed wholly or substantially from cess or Central Government grants. “Substantially” means that more than 50% of the expenditure of autonomous body is met through cess or Central Government grants. An autonomous

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body may be a society registered under the Societies Registration Act, 1860 or a statutory body or a Central university having its own governing council whose memorandum of association/ by laws, etc. contain provision for complying with Government directives for carrying out its business in achieving the objectives for which the organization is established.”

11. The applicants has not placed on record any document to show that the KLP College Rewari was created by a statute or that it was registered as a society or substantially financed from cess or Central Government grants. The respondents have made an averment that the government is only re-imbursing 95% of the deficit between Income and Expenditure of salary expenditure and this does make for not 50% of the total expenditure. The applicant therefore cannot take benefit of the judgment of Hon'ble Delhi High Court in the case of Director General, Council of Scientific and Industrial Research and Ors Vs Dr. (Prof) N K Jain, 2002 (1)AISLJ 194. The applicant has also not been able to place on record any bye – laws or portion of the memorandum of association of the college or the bye-laws which contains the provision that it will comply with Government directives for carrying out its business.

12. In view of the above we find no merit in the OA and accordingly it is dismissed. No costs.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

Patwal/