

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2888/2003

New Delhi this the 19th day of May, 2004.

Hon'ble Shri Shanker Raju, Member(J)

1. M.L. Raiput
S/o Sh. H.S. Rajput
2. Mrs. Harieet Kharbanda
W/o Sh. A. S. Kharbanda
3. Mrs. Suman Adlakha
W/o Sh. Satish Adlakha
4. Mrs. Asha Malik
W/o Sh. N.C. Malik
5. Mrs. Maniula Kalra
W/o Sh. G.R. Kalra
6. Mrs. Ramrakhi
D/o late Sh. Bhagwan Dass
7. Mrs. Saran Singh
W/o Sh. Sohan Singh
8. Mrs. Kusum Dugra
W/o Sh. O.K. Dogra
9. Vishnu Gopal
S/o late Sh. Krishan Gopal Kaushik
10. Miss Reena Gautam

All the applicants are working as Teachers in Nursery & Primary School for deaf, Kalkaji(South), New Delhi.

(through Sh. Yogesh Sharma, Advocate)

Versus

1. NCT of Delhi through
the Chief Secretary,
New Sectt. New Delhi.
2. The Director,
Directorate of Social Welfare,
Govt. of NCT of Delhi,
K.G. Marg, New Delhi-1.
3. The Superintendent(Admn.),
Department of Social Welfare,
GLNS Building, Govt. of NCT of Delhi,
Delhi Gate, New Delhi-2.
4. The Secretary,
Department of Finance,
Govt. of NCT of Delhi,
New Sectt., New Delhi. Respondents

(through Mrs. Sumedha Sharma, Advocate)

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ORDER (ORAL)
Hon'ble Shri Shanker Raju, Member(J)

Applicants who are working as teachers in Nursery & Primary School for deaf, Kalkaji(South), New Delhi assail respondents' orders dated 11.9.2003, 26.2.2003 as well as 1.11.2002 denying them special allowance and double rates.

2. On the recommendation of Vth Pay Commission Directorate of Social Welfare vide order dated 1.11.2002 doubled the special allowance in respect of all the schools w.e.f. 1.8.1997. The finance department of Government of N.C.T. have not acceded to continuation of special pay and its doubling and has extended it only in G.N.L.S.

3. Learned counsel of the applicant states that it is only after 11.9.2003 the pay and allowances have been discontinued. He states that being similarly circumstance and forming one class applicants cannot be denied benefits of special allowance. The cadre controlling authority has already allowed the special allowance which cannot be stopped without any justification which is violative of Articles 14 & 16 of the Constitution of India.

4. Respondents' counsel Smt. Sumedha Sharma states that as the finance department has not accorded the pay and allowances the same have been denied.

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5.. A Constitution Bench of the Apex Court in D.S. Nakara Vs. Union of India (1983 SCC (L&S) 145) deprecated invidious discrimination.

6. Applicants are similarly circumstance with the teachers in GLNS. They form a class. Denying special allowance when it has been sanctioned by the Directorate only on the ground of non-sanction by the Finance without any justification offends principles of equality enshrined under Articles 14 & 16 of the Constitution of India. Such a decision is not founded on any intelligible differentia and has no reasonable nexus with the object sought to be achieved.

7. In the result, O.A. succeeds. Impugned orders are set aside. Respondents are directed to continue special allowance with the double rates with all consequential benefits. This should be done within a period of two months. No costs.

S. Raju
(Shanker Raju)
Member(J)

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