

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.3004/2003

New Delhi, this the 7th day of February, 2005

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

Shri B.S. Tyagi,  
S/o late Shri G.S. Tyagi,  
R/o B-144, Suraj Mal Vihar,  
Delhi-92

.....Applicant

(By Advocate: Shri Gyan Prakash)

Versus

1. Govt. of N.C.T. of Delhi, through  
The Chief Secretary,  
I.P. Estate, New Delhi
2. The Principal Secretary (Education),  
Deptt. of Education,  
Govt. of N.C.T. of Delhi,  
Delhi-54
3. The Director,  
Directorate of Education,  
Govt. of N.C.T. of Delhi,  
Old Secretariat, Delhi-54
4. The Dy. Director of Education,  
District East,  
Rani Garden, Geeta Colony,  
Delhi-54
5. The Secretary,  
Deptt. of Education,  
Ministry of H.R.D.,  
Shastri Bhawan, New Delhi  
Block-12, Kendriya Karyalaya Parisar,  
Lodhi Road, New Delhi-3

6. The Principal,  
Govt. Boys Senior Secondary School,  
Court Road, Vishwas Nagar,  
Shahdara, Delhi-32

....Respondents

(By Advocate: Ms.Simran,proxy for Mrs.Avnish Ahlawat)

**Order(Oral)**

**Justice V.S. Aggarwal, Chairman**

The applicant B.S. Tyagi joined as Trained Graduate Teacher (TGT) on 9.9.55. He was promoted as Post Graduate Teacher (PGT) on 18.7.62. He was confirmed as such on 6.9.71. On 1.3.75, he was granted the Selection Grade. On 25.8.84, he was promoted as Vice Principal on ad-hoc basis. Thereafter on 12.8.87, Government of India issued instructions regarding grant of three pay scales to teachers of all categories i.e. entry scale, senior scale and selection scale.

2.Applicant contends that he became eligible for Selection Grade of PGT from 1.3.87. He superannuated on 30.6.91.

3.After his retirement, he was given regular promotion with effect from 9.1.86 as Vice Principal. On 29.10.88, an order was issued by the Joint Director of Education for grant of PGT selection scale of Rs.2200-4000. The name of the applicant was at serial number 115. Accordingly, his pay was fixed and pension also was re-fixed. Vide the impugned order dated 26.9.2001, it was directed:

"1. The instructions of the Govt. of India, circulated vide letter No.F.5-180/86- UTI, dated 12.8.87 for the grant of selection scale to the teachers, states that:-

*ls Ag*

(a) While Sr. Scale will be granted after 12 years to TGT/Head Masters of Primary School and PGT/Head Masters of Middle School, the selection scale will be granted after 12 years service in the Sr. Scale of the respective cadre.

(b) The number of posts in the selection scale will be restricted to 20 of the number of posts to the Sr. Scale of the cadre.

© The teacher would be required to participate in service training programme at least three weeks duration before he/she is promoted to the selection scale i.e. once in six years.

2. Sh. B.S. Tyagi was promoted as PGT w.e.f. 18.7.62 and was granted selection grade of PGT w.e.f. 1.3.75. He was promoted to the post of Vice Principal w.e.f. 24.8.84.
3. Before the completion of 12 years service, Shri B.S. Tyagi was promoted as Vice Principal and therefore he did not meet the requirement as laid down in the instructions issued by Govt. of India referred to above.

In view of the above facts of the case, the case of Shri B.S. Tyagi is not covered for the grant of selection scale. Therefore, after giving the due consideration, the case is rejected."

The recovery was effected in pursuance of the said order.

4. By virtue of the present application, the applicant seeks quashing of the said orders.

5. The petition is being contested.

6. Prior to 1.1.86, there were only two scales in the cadre of TGT as well as PGT. When the 4<sup>th</sup> Central Pay Commission recommendations were enforced from 1.1.86, the pay scales before the 4<sup>th</sup> Pay Commission were - entry scale at Rs.440-750 for TGT and Rs.550-900 for PGT. The

*As Ag*

Selection Grade was Rs.740-880 for TGT and Rs.775-1000 for PGT. After the 4<sup>th</sup> Central Pay Commission, the replacement scale for TGT at the entry level was Rs.1400-2600 and for PGT, it was Rs.1640-2900. The Selection Grade for TGT was Rs.1640-2900 and for PGT, it was Rs.2000-3500.

7.Subsequently, National Commission for Teachers under the chairmanship of Prof. D.P. Chattopadhyaya, made various recommendations. The replacement scales effective from 1.1.86, were revised based on the recommendations of the 4<sup>th</sup> Pay Commission as per orders of Government of India, Ministry of Human Resource Development dated 12.8.87. Presently, three scales were introduced and an intervening senior scale was also allowed. As per it, the new Selection Grade was to be given on completion of 12 years of service in the erstwhile selection scale. The selection scale posts were limited to 20% of posts in the senior scale. It could be given after screening by a DPC and on completion of satisfactory in-service training.

8.The controversy had arisen and was referred to a Full Bench of this Tribunal in O.A. No.3165/2002 with O.A.No.1051/2003. The Full Bench had formulated the following question:

"Whether a teacher who has been promoted retrospectively on regular basis as PGT/Vice Principal is entitled to selection grade of the lower post?"

9.The Full Bench answered the question as under:

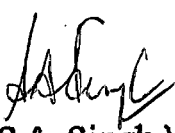
"21. In view of the discussion in the preceding paragraphs, the question as framed is answered in the affirmative i.e.


As Ag

16

the teachers promoted as PGT/Vice Principal by an order from a retrospective date on regular basis will continue to get the benefits of selection grade of lower post of TGT/PGT if they were otherwise entitled."

10. Since this was the only controversy alive, therefore, keeping in view the answer given by the Full Bench, we dispose of the present application with the direction that applicant who was promoted as PGT by an order from retrospective date, would be entitled to get the benefit of selection grade of the lower post from the date he became eligible, if he was otherwise entitled. Necessary benefits should be accorded to him. The excess amount that has been recovered from the applicant, should be refunded to him.

  
( S.A. Singh )  
Member(A)

  
( V.S. Aggarwal )  
Chairman

/dkm/