

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

ORIGINAL APPLICATION NO. 220/2003

Date of Order: 10.05.2011.

CORAM:

HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER

Smt. Bimla Aggarwal, Ex. TGT, KV, New Mehrauli Road, B-2,
Marg-2, Saket, New Delhi - 110017.

...Applicant.

Mr. Pramod Kumar with Ms. Rina Sarkar, counsel for applicant.

VERSUS

1. Union of India through Chairman, KVS, JNU Campus, New Delhi.
2. Kendriya Vidyalaya Sangathan, through Commissioner, KVS, JNU Campus, New Delhi Mehrauli Road, New Delhi.
3. Director of Public Instruction, through Deputy Director, Punjab Education Department Services, Chandigarh, Punjab.

... Respondents.

Mr. S. Rajappa, counsel for respondents.

ORDER

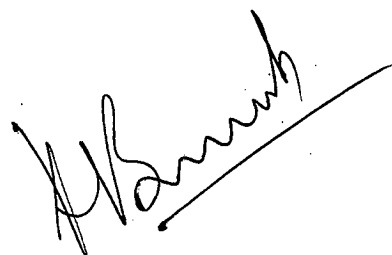
(Per Dr. K.B. Suresh, Judicial Member)

The applicant had apparently worked in Central School at Shimla from July, 1965 to November, 1968. She had apparently completed her probation period of two years. The GPF was deducted from her salary. Thereafter, she joined Govt. Jr. Model School, Sunder Nagar (HP) in 1968 vide office order No. 6301-BSL/A2/520/66 dated 10.03.1969. She had apparently worked

K.B. Suresh

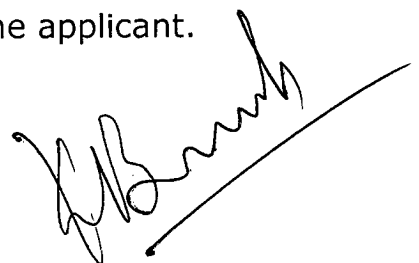
till 30.04.1973 and that she was transferred to Govt. High School, Gharuan, Dist. Ropar (Punjab) vide relieving order No. 168-71/PF dated 2/5.04.1973. Thereafter, she was transferred to Govt. Middle School Baltana, Patiala Dist. and, thus, transferred to Govt. High School, Desunajia and she worked there till 1975. Thereafter, she joined on transfer at Govt. Higher Secondary School, Talwara and worked there till 22.09.1975. From there, she was relieved to join at Kendriya Vidyalaya, Gurgaon on 23.09.1975.

2. The applicant would say that she applied for the post of TGT in KVS through proper channel, and the application was forwarded by the Department under the Respondent no. 3. The DPI had sanctioned her deputation and, accordingly, KVS had accepted it. Apparently, the Additional Commissioner had given 'No Objection' letter to treat her on deputation for a period of two years vide letter No. PERS/BA/77-KVS/RR/Faridabad dated 19.04.1977. The sanction of deputation in KVS by DPI Punjab was also issued vide letter No. 10/148-74/EW dated 26.07.1976. She had also availed six increments while in service of Punjab Govt. In July 1975, according to her Last Pay Certificate, she was drawing Rs. 268/- as basic pay, and the GPF statement for the year 1976 also makes it clear that GPF was deducted. Therefore, on this basis, the applicant claims to count and give credit for the entire service period of the applicant for the purpose of eligibility and calculation of the amount of pension due to her.



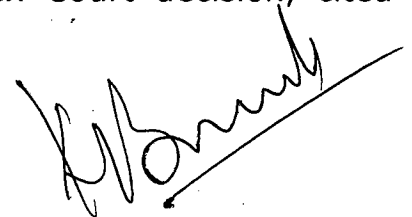
3. The respondents would say that the applicant joined the Kendriya Vidyalaya on 23.07.1975 and the circular governing the counting of past service is the circular dated 22.08.1994 of the Department of Personnel and AR vide OM No. 28-10/84/Pension Unit and other instructions and guidelines / circulars issued by the Kendriya Vidyalaya Sangathan from time to time. Vide these circulars & instructions, an employee borne on the pensionable establishment is allowed to be absorbed in an autonomous body like the KVS, the services rendered by such employee shall be allowed to be counted towards pension in an autonomous body whether the employee was temporary or permanent in the Govt. However, the pensionary benefits will accrue only if the temporary service is followed by confirmation. It also stipulates that the previous employer must accept the pension liability. They would say that in fact they had issued a circular calling for option of people in like situations so that they can start proceedings for getting pension contribution as early as by 31.12.1990 vide circular dated 22.10.1990. But the applicant would say that she is unaware of this circular and it was neither circulated among the teachers nor was it made known to her even though the respondents were fully under the knowledge that she would be benefited from it.

4. The respondents would say in the situation that the previous employer should deposit the benefits along with the interest and only then the right to count the previous service as the qualifying services will revive for the applicant.



5. Thereupon, the matter was taken up and heard and during the course of hearing since it appeared that presence of Punjab Govt. may be required to resolve the issue, an opportunity was granted to the applicant on 07.05.2010 to bring the previous employer into the party array and impleading application was thereafter filed and allowed. The State of Punjab through the Director of Public Instruction was arrayed as party-respondent No. 3, but they had not filed any reply as yet, but the documents produced by the applicant would reveal that she had come out to the KVS only with the permission and following the procedure provided for by the Punjab Govt. and therefore it cannot be taken that the Punjab Govt. would have had any objection to the grant of a benefit to its previous employee.

6. The applicant relies on a decision of the Hon'ble Apex Court in Civil Appeal No. 1251/2008 (arising out of SLP (C) 8966/2006) – **K.V. S. & Anr. vs. Raghunandan Bhargava & Ors.** – wherein the Hon'ble Apex Court has held that the previous employer (in that case – State of Madhya Pradesh) has to work out the pension liability of the State for the period the pensioner had worked in the State and called upon the pensioner in that case to produce all service records available with him to the Directorate of Public Education, State of Madhya Pradesh as in that case, apparently, the State of Madhya Pradesh was not a party. But in this case, the State of Punjab is a party but as yet since they had not filed reply / written statement, I deem it just and proper to rely on the Hon'ble Apex Court decision, cited



supra, and direct the applicant to submit a detailed representation to the 3rd respondent within one month with all available records with her, and a direction is issued to 3rd respondent to work out pension liability of the State of Punjab for the services rendered by her, within three months next of having received the representation, and thereafter to forward the corpus of the funds to the K.V.S. who shall then work out the benefits to be granted to the applicant within one month thereafter. The Original Application is, thus, allowed to the extent stated above. No order as to costs.


(DR. K.B. SURESH)
JUDICIAL MEMBER

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