

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00297/17
With
MA/050/00291/18

Date of Order: 21.10.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

1. Dhaneshwar Prasad, son of Late Prabhu Prasad, resident of Mohalla- Shaktipuran Colony, Ashiana Nagar, Patna.
2. Dr. Ganesh Kumar, son of Srikant Thakur, Resident of Village- Benua, PO- Sonenagar, District- Samastipur, P.G.T. Kendriya Vidyalaya, Kankarbagh, Patna.

.... Applicants.

By Applicant no. 1 in person

-Versus-

1. The Union of India through Secretary, Ministry of Manav Sansadhan, Government of India, New Delhi-11.
2. The Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, Sahijeet Marg, New Delhi-11
3. The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Patna Kendriya Vidyalaya Sangathan, Patna Kendriya Vidyalaya Sangathan, Kankarbagh, Samebhag-1.

.... Respondents.

By Advocate: - Mr. G.K. Agrawal

O R D E R

Per Dinesh Sharma, A.M:- In this case, the applicants have prayed for appointment as Vice-Principal/Principal to boost up their morale and dignity. They have also sought a direction upon the respondents to consider their case for promotion against the sanctioned and vacant post of Vice-Principal against their due dates with all consequential benefits and further for consideration of the cases of applicants for promotion against the post of Principal with all consequential benefits under their 50% quota. The

applicants have alleged that they are eligible and qualified in all respects for the post of Vice-Principal/Principal. The applicant no. 1 has been working as PGT for nearly 24 years and applicant no. 2 for 29 years. They have clean service records and unblemished career. Holding up their promotion to the post of Vice Principal/Principal is violative of Article 14 and 16 of the Constitution of India and contrary to the Appointment, Promotion, Seniority etc. Rules, 1971 of Kendriya Vidyalaya Sangathan (KVS). Under these rules there is no quota for promotion for the post of Vice-Principal. Under NVS Rules, there is a provision for 50% promotion for the post of Principal while 50% is by direct recruitment. The Education Department, Govt. of Bihar has also adopted the same procedure in the appointment of Headmasters. The KVS had adopted the principle of promotion to the post of Principal 100% from the post of Graduate Teachers till 07.04.2011. After this, this procedure has been stopped without any reasonable cause. The KVS has advertised for the post of Principal directly and no opportunity for PGTs of long standing has been given. Against such partial attitude of the respondents the applicant no. 1 has given a representation on 09.08.2016 which is yet to be disposed of. The prayer of the applicants is based on all these grounds.

2. A written statement has been filed by the respondents in which they have alleged that KVS is an autonomous organisation running approximately 1142 KVs. The claim of the applicants that the post of Vice-Principal/Principal are filled up only by way of direct examination ignoring the claims of the applicants is misconceived. The Recruitment Rules have

been amended w.e.f. 12.02.2014 and instead of earlier 33.33% seniority based promotion a 50% LDCE based promotion quota has been inducted for the post of Principal with the intention to enhance career promotion opportunities to the PGTs of KVS. Thus, the recruitment rules have been framed in such a manner that ample provision for PGTs have been made to ensure the eligibility for promotion through LDCE and also through direct recruitment. The respondents have denied all the averments of the applicants regarding holding up their promotions and being in violation of Article 14 and 16 of the Constitution.

3. Rejoinder has been filed by the applicants in which they have alleged suppression of facts by the respondents and reiterated that if policy decisions are anti-thesis of the Rules and Codes it negated the rule of law and violative of the Article 14 and 16 of the Constitution. They have also cited a ruling of Hon'ble Supreme Court as reported in AIR 2004 SC 1849 to support their argument that promotion is a condition of service and a teacher, if retires from one post serving nearly 30 years, without any promotion, is arbitrary and violative of the principle of natural justice. They have also stated that the OM dated 04.03.2014 (Annexure R/1) is illegal, arbitrary, unfair and fit to be set aside. The applicants have also stated that not giving benefit of MACP to the Teachers under KVS amounts to step-motherly treatment.

4. The case was argued before us by applicant no. 1 who, after withdrawing his brief from his advocate, appeared as party-in- person. The

learned counsel for the applicant no. 2 did not appear at the time of arguments despite ample opportunity given for such appearance.

5. The applicant has also filed an MA requesting for finalization of all India gradation list of PGTs which, he alleges, is an integral part of promotion. The respondents have vehemently opposed this request since there is no cause of action shown for joining this request in this OA.

6. After going through the pleadings and hearing the arguments of the applicant no. 1 (In person) and the learned counsel for the respondents, it is clear that the basic demand in this OA is for creation of promotional opportunity (as Vice-Principal/Principal) for the applicants. Though the applicants have repeatedly claimed violation of Article 14 and 16 they have failed to produce any evidence of the same. On a specific query to the applicant no. 1 about whether anyone similarly placed with him has been granted promotion while it is denied to him, the answer was in the negative. The applicant was also asked whether there was any vacant post of Vice-Principal/Principal which were not being filled and thus his promotion prospects were getting affected. The answer to that query was also in the negative. Since the respondents Department have already made amends by providing 50% quota for promotion, it should take care of the need for providing opportunities for promotion to the in-service candidates. Since the applicants have not produced any rule under which they could claim a right to get promoted nor any instance of any violation/delay in filling posts to deprive them of their reasonable chance for promotion, we

do not find any merit in the claims made by the applicants. The OA and MA are, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member