



**Central Administrative Tribunal
Principal Bench**

OA No. 3446/2017

Order reserved on : 26.11.2019
Order pronounced on: 13.12.2019

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)

Jai Prakash Vats
S/o Sh. Raghbir Singh
Aged about 57 years,
Group 'B',
R/o House No.80/1,
Pocket D-12, Sector-07,
Rohini, Delhi-110085.

... Applicant

(By Advocate: Sh. K.P.Gupta)

VERSUS

1. Govt. of NCT of Delhi,
Through its
Secretary (Education),
Old Secretariat,
Delhi.
2. Director of Education,
Govt. of NCT of Delhi,
Directorate of Education,
Old Secretariat,
Delhi.
3. Deputy Director of Education,
GNCT of Delhi,
Office of the Deputy Director of Education,
District North West-B,
FU Block, Pitampura,
Delhi-110034.



4. Deputy Commissioner of Accounts (Education),
(Headquarter)
Govt. of NCT of Delhi,
Directorate of Education,
Old Secretariat,
Delhi.
5. Principal/Head of School,
GBSSS, Prashant Vihar,
Delhi-110085.

... Respondents

(By Advocate: Sh. Rajnish Sharma)

ORDER

By Hon'ble Mr. Pradeep Kumar, Member (A)

Applicant was appointed as Assistant Teacher in Municipal Corporation of Delhi (MCD) on 22.01.1983. He was promoted to the post of TGT and posted in a school run by Directorate of Education, GNCT of Delhi on 12.11.1983 in the pay scale of Rs.440-750 which was revised to Rs.1400-2600 w.e.f. 01.01.1986 when 4th CPC was implemented. Thereafter, he was promoted to the post of PGT/Lecturer (Economics) on 25.11.2006.

2. Vide Ministry of Human Resource Development policy letter dated 12.08.1987, TGTs were having three tier pay scales w.e.f. 01.01.1986, i.e. one existing/basic pay scale of Rs.1400-2600, Senior Scale of Rs.1640-2900 to those having 12 years service and Selection Scale of Rs.2000-3500 to those who served for 12 years more. Applicant was granted this



Senior Scale on 12.11.1995 on completion of 12 years service as TGT.

3. Thereafter ACP was introduced vide letter dated 25.08.2003 and was made applicable w.e.f. 09.08.1999. This was in replacement of the earlier scheme. This envisaged two upgradations to TGT on completion of 12 years of service and 24 years of service if they were not promoted in this period. The first upgradation to TGT lies to the scale of Rs.6500-10500 and the second upgradation lies to the scale of Rs.7500-12000.

Applicant pleads that he was due for grant of the second upgradation on completion of further 12 years of service since first upgradation was granted, i.e. w.e.f. 12.11.2007 as he was first promoted from Assistant Teacher to TGT on 12.11.1983 (i.e. on completion of 24 years service as TGT). However, this was not granted on the reasoning that he had already been given two promotions already one on 12.11.1983 from Assistant Teacher to TGT and then on 12.11.1995 when he was given senior scale as a TGT.

4. Applicant pleads that his junior Sh. Ranvir Singh, who is a direct recruit TGT to the pay scale Rs.1400-2600, was granted second ACP w.e.f. 05.12.2007. And with this, Sh. Ranvir Singh received a higher salary. It is pleaded that it is an anomaly and in terms of Ministry of Finance OM dated



04.02.1966, his pay is required to be stepped up w.r.t. his junior.

5. Applicant relies upon the judgment of Hon'ble Supreme Court in **Govt. of Haryana vs. Ram Sarup Ganda**, SLP No.20264/2004 decided on 02.08.2006. He also relies upon the judgments of Hon'ble High Court of Delhi in **Smt. Krishna Kumari vs. Govt. of NCT of Delhi**, WP(C) No.3534/2012 decided on 09.12.2013 and in **Govt. of NCT of Delhi vs. Vandana Panwar**, WP (C) No.7149/2018 decided on 13.07.2018.

6. The respondents opposed the OA and filed a detailed reply. A comparative statement of applicant vis-a-vis Sh. Ranvir Singh Dabas has been given which shows as under:

S.No.	Date	Description	
		Jai Prakash Vats (Applicant)	Junior (R.S. Dabas)
1	22/1/1983	Appointed as Assistant teacher in MCD in the pay scale of 330-560	--
2	12/11/1983	Promoted to the post of TGT in DOE in the pay scale of 440-750 (rev 1400-2600) as 1 st financial upgradation	--
3	5/12/1983	--	Appointed to the post of TGT direct recruitment in the pay scale of 1400-2600
4	12/11/1995	Granted senior scale after 12 yrs. Of service as TGT pay scale 1640-2900 as 2 nd financial upgradation and exhausted all benefits of ACP.	--



5	5/12/1995	--	Granted senior scale after 12 yrs. Of service pay scale 1640-2900, as 1 st financial upgradation
6	25/11/2006	Promoted to the post of PGT PB-2 9300-34800, Grade Pay 4800, granted 3% increment	Promoted to the post of PGT PB-2 9300-34800, Grade Pay 4800, granted 3% increment
7	5/12/2007	--	Granted ACP-2 in the PB-3 15600-39100, Grade Pay 5400 as 2 nd financial upgradation as per hierarchy of post.
8	1/9/2008	Granted 3 rd MACP from Asstt. Teacher Post in the PB-2 9300-34800, Grade Pay 5400, as 3 rd financial upgradation as per hierarchy of Grade pay, exhausted all benefits of MACP	--
9	5/12/2013	-	Granted 3 rd MACP from TGT Post in the PB-3 15600-39100, Grade pay 6600 as 3 rd financial upgradation

7. It was pleaded that subsequently MACP scheme was also implemented which envisaged three financial upgradations. The 3rd MACP benefit has also been granted. Any further upgradation is not admissible. It was also pleaded that following provision was made vide para 8 of conditions for grant of benefits under ACP Scheme notified on 09.08.1999:

“The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee

on the ground that the junior employee to the grade has got higher pay scale under the ACP Scheme”



8. Similarly, in the MACP Scheme notified on 19.05.2009 (which was to take effect from 01.09.2008), following was provided in para 10 thereof and para 20 of Annexure-I thereof:

“10. No stepping up of pay in the pay band or grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP Scheme.”

“20. Financial upgradation under the MACPS shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employees on the ground that the junior employee in the grade has got higher pay/grade pay under the MACPS.”

9. It was further pleaded that requested relief is not admissible.

10. Matter has been heard at length. Sh. K.P.Gupta, learned counsel represented the applicant and Sh. Rajnish Sharma, learned counsel represented the respondents.

11. The policy directives very clearly specify that benefits under ACP and MACP are personal to those who get it and senior are not to be granted any stepping up of pay if as a result of grant of benefits under ACP/MACP, junior get higher pay. Policy directives are, thus, unambiguous.



12. Learned counsel for applicant relied upon the judgment of Hon'ble Supreme Court in **Ram Sarup Ganda** (para 5 supra) wherein the applicants joined as Group-D employees. They were later promoted to Group-C. When ACP was introduced on 01.01.1996, they had already completed a total service of 20 years (as specified in that scheme) and as such were already granted two upgradations. The second ACP was to the scale of Rs.4000-6000 whereas for Group-C, the first ACP scale was Rs.4000-6000 and second ACP scale was Rs.5000-7850.

One Sh. Suraj Bhan was appointed as Group-D on 07.12.1972 and he became Group-C on promotion to Clerk on 01.02.1984. He completed 20 years of service on 01.01.1992, and he was initially granted the second ACP benefit to Rs.5000-7850. However, Audit raised an objection that he already got two upgradations as Group-D one as first upgradation and second as promotion to the post of Clerk, the last being to the scale of Rs.4000-6000 hence upgradation to the scale of Rs.5000-7850 was not admissible and pay was proposed to be reduced. The Hon'ble Apex Court had allowed retention of Rs.5000-7850 scale as there was nothing in said rules of upgradation, not to allow such upgradation.

As against this, ACP/MACP have express provision not to allow stepping up with respect to junior.



13. Learned counsel for applicant also relied upon the judgment of Hon'ble High Court of Delhi in **Smt. Krishna Kumari** (para 5 supra) wherein the applicant's name was included in the select list made for recruitment of TGT, for 1492 vacancies for the year 1983-84. However, she was not initially granted such appointment as only 654 candidates were appointed. Cases were filed. This Tribunal directed for all notified posts to be filled up. This was challenged in Hon'ble Supreme Court wherein Court stayed the order of the Tribunal but eventually upheld the decision of Tribunal in the year 1993 along with further direction that all candidates will be granted seniority w.r.t. original merit list for 1492 candidates for the year 1983-84 vacancies. This was in keeping with the fact that TGT recruitment took place in the interregnum also since 1986 till 1993. Thereafter, such candidates, out of 1492, who were appointed subsequent to decision of Hon'ble Supreme Court, prayed for notional increments. This was allowed by Tribunal though without arrears. This was upheld by Hon'ble Supreme Court.

Thereafter, ACP Scheme came into being in the year 1999. Smt. Krishna Kumari prayed that her 12 year service be counted from the notional date of appointment, as for said period of non-working, she was not responsible. This was denied by the Tribunal. Feeling aggrieved, she filed this writ



before Hon'ble High Court. Hon'ble High Court relied upon the decision by Hon'ble Supreme Court in **Ram Sarup Ganda** (supra) and allowed ACP/MACP benefit, w.r.t. to her junior who was appointed out of initial 654 candidates.

13.1 This Tribunal, therefore, notes that in this case ACP/MACP benefit was granted w.r.t. to her junior who was from the same select panel. As against this, in instant case, applicant was an Assistant Teacher and was promoted to TGT while Sh. R.S.Dabas was a directly recruited TGT and applicant is seeking benefits at par with Sh. R.S.Dabas. The contradiction with relied upon case is self evident. The relied upon case is thus of no help to applicant.

14. Learned counsel for applicant also relied upon the judgment of Hon'ble High Court of Delhi in **Vandana Panwar** (para 5 supra) wherein applicant and one Ms. Mamta Meena were selected for the post of PGT/Lecturer against advertisement No.2/2006. Ms. Mamta Meena was lower in merit. However, she was issued offer of appointment earlier to Smt. Vandana Panwar. The final seniority issued indicated Smt. Vandana at Seniority No.3235 whereas Ms. Mamta was a Seniority No.3279. Smt. Vandana Panwar pleaded for stepping up of her pay w.r.t. her junior Ms. Mamta. This was denied. She filed OA before this Tribunal who relied upon the case of Hon'ble Supreme Court in **Ram Sarup Ganda**



(supra) and stepping up was allowed. This was challenged before Hon'ble High Court in this writ. The decision of the Tribunal was upheld.

14.1 This Tribunal notes that in this case also benefit of stepping up was allowed to the senior candidate vis-à-vis her junior who were both from the same recruitment panel. As mentioned above, this ratio is not applicable in instant case as applicant and Sh. R.S.Dabas are from two different recruitments for two different posts.

15. Hence, this OA is without merit and is accordingly dismissed. No order as to costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

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