

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1108/2011

Reserved on 11.02.2014
Pronounced on 25.02.2014

Honble Mr. V.Ajay Kumar, Member (J)
Honble Mr. P.K.Basu, Member (A)

1. Govt. School Teachers Association
Delhi
Through its President
Shri Om Singh
Room No.221A
Directorate of Education
Old Secretariat, Delhi 110 054.

2. Mrs. Satish Gandhi
PGT (Retired)
Sarvodaya Kanya Vidyalay No.1
Model Town, Delhi 110 009.

3. Shri Rekhpal Singh, TGT
Govt. Boys Sr. Sec. School
Block 13, Geeta Colony
Delhi 110 031.

4. Shri Ashok Kumar Sharma, TGT
Govt. Boys Sr. Sec. School No.2
Nazafgarh
New Delhi 110 043.
(By Advocate: Shri Anil Singal)

. Applicants

VERSUS

1. Union of India
Ministry of Finance
Department of Expenditure,
Through its Secretary
North Block, Raisina Hills
New Delhi.

2. The Govt, of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat
Players Building
I.P.Estate, New Delhi

3. The Director of Education
Directorate of Education
Old Secretariat
Delhi 110 054.

. Respondents.

(By Advocate: Ms. Rashmi Chopra)

ORDER

By Honble Mr.P.K.Basu,

This application has been filed by some Trained Graduate Teachers (TGT) and also on behalf of them by the Association basically for implementation of Clarification dated 10.12.2009 issued by the Department of Expenditure in which certain pay benefits have been given to Assistants/Personal Assistants who were promoted between 01.01.2006 and 31.08.2008. The applicants claim that they are similarly placed as the Assistants and Personal Assistants and, therefore, the clarification dated 10.12.2009 issued by the Department of Expenditure should be applicable to them. The facts in the case of applicant no.2 will illustrate the issue. Applicant no.2 got promotion as Post Graduate Teacher (PGT) on 09.08.2006 while working in the Senior Scale of TGT. The Senior Scale of TGT & PGT were identical in the pre-revised scale i.e. Rs.6500-10500/-. The department fixed her pay after pay revision with benefit of one increment in terms of Rule 13 of the CCS (Revised Pay) Rules 2008. Rule 13 deals with fixation of pay on promotion after 01.01.2006 and, inter alia, stipulates the addition of one increment. Her grievance arose when on her retirement, the Pay & Accounts Officer raised objection on allowing one increment on promotion in an identical grade pay (Rs.6500-10500/- of Senior Scale of TGT to Rs.6500-10500/- of PGT, both given revised scale of Rs.7500-12000/- under CCS (Revised Pay) Rules, 2008, Part-B, Section-II and hence carrying the same grade pay of Rs.4800/- in 6th CPC Scale of PB-2. Consequently, her pay was reduced and recovery was affected. This is the genesis of this case.

2. Heard both the parties.

3. The applicants state that before 6th CPC, TGTs were in the scale of Rs.5500-9000/- like Assistants/Personal Assistants in the Secretariat. However, they were granted upgraded scale of Rs.7450-11500/- w.e.f. 01.01.2006 and were placed in PB-2 with grade pay of Rs.4600 after the 6th CPC was implemented. As per the CCS pay fixation Rules, 2008, all employees had the option to either opt for revision of pay w.e.f.01.01.2006 or from the date of promotion/upgradation which took place between 01.01.2006 and the date of notification of the CCS Rules, 2008 i.e.29.8.2008.

4. The clarification issued by Department of Expenditure dated 10.12.2009 with regard to promotion as Assistant/Personal Assistants on or after 01.01.2006 is as follows :-

Officials promoted as Assistants/Pas on or after 01.01.2006. In the case of Government Servants who were promoted as Assistants/PAs between 1.1.2006 and 31.8.2008, their pay will be fixed as per the option exercised by them. In terms of CCS(RP) Rules, 2008, they have the option to (i) either have their pay fixed w.e.f.1.1.2006 with reference to the lower scale which they were holding as on 1.1.2006 or (ii) from the date of promotion/upgradation which took place after 1.1.2006, in this case, their pay will be fixed with reference to the fitment table of the higher pay scale, however, they will not be entitled to arrears of pay from 1.1.2006 till the date of option.

Accordingly, in the case of officials who were promoted as Assistants/Pas between 1.1.2006 and 31.8.2008, they have the option to have their pay fixed w.e.f.1.1.2006 with reference to the pre-revised scale of the lower grade i.e UDC/Steno D. In such cases, on the date of their promotion their pay will be fixed by granting them one increment in the pay band (subject to the minimum pay in the pay band being Rs.9300) and grade pay of Rs.4600.

Alternatively, they can opt to have their pay fixed from the date of promotion with reference to the fitment table of the upgraded pay scale i.e. pre-revised scale of Rs.7450-11500, in which case they shall not be entitled to arrears of pay

from 1.1.2006 till the date of option.

5. The grievance of the TGTs is that this clarification not being made applicable to them is incorrect as both the cadres stood at par with respect to pre-revised scale and upgraded scale Rs.7500-12000/-. They cited the judgment of the Honble Supreme Court in Bhagwan Sahai Carpenter & Ors. Vs. Union of India and another, 1989 (2) SCC 299 on the principle of equal pay for equal work.

6. The respondents stand is that the case of Assistants/Personal Assistants and TGT/PGT stands on a different footing. According to them, the pre-revised scale of pay of Assistants/Personal Assistants was revised from Rs.5500-9000/- to Rs.6500-10500/- w.e.f. 15.09.2006 in the pre-revised structure itself. This was at the time when the 6th CPC was in the midst of its deliberations and the revised structure was not brought into force. As a result, for the Assistants/Personal Assistants cadre, the situation was different as they came over to the revised scale of Rs.6500-10500/- (an actual pre-revised scale) from 15.09.2006. The respondents argued that in view of the special circumstances it was necessary to provide a different set of principle in the case of Assistants/Personal Assistants and this is what has been done vide clarification dated 10.12.2009.

7. The respondents stated that on the other hand, there is no such analogy involved in case of the Teachers. The teachers as borne on specific pre-revised scales prior to 1.1.2006 have been brought over to the prescribed Pay Bands and the Grade Pays. Grade Pays (for example Rs.4600 in case of TGT) corresponds to pre-revised scales (Rs.7450-11500/-) higher than the pre-revised scales actually applicable (Rs.5500-9000/-) prior to 1.1.2006. However, no intermediary scale in the pre-revised structure itself was introduced in their case between 1.1.2006 and 29.8.2008 during the pendency of the recommendations of the 6th Central Pay Commission, unlike the case of Assistants/PAs. Thus the two cases are not similarly placed and, hence the dispensation allowed in case of those Assistants promoted as such after 1.1.2006, does not apply in the case of TGTs.

8. Moreover, it is clarified that there is no question of addition of one increment when promotion takes place for a feeder grade to a promotional grade, which comes to lie in the same scale. The pay scale of Senior Scale TGT and pay scale of PGT was identical i.e.6500-10500/-.

9. We feel that there is clear distinction between the TGT/PGT cadre and the Assistant/Steno Cadre. While merging the scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500 to 10500/- and giving the higher scale of Rs.7450-11500 from 1.1.2006 to the TGT and Assistants/Personal Assistants, they were not substantive scale/posts created and merged whereas in the case of Assistant/Personal Assistants, substantive revised scale of Rs.6500-10500/- was given to the Assistants/Personal Assistants unlike in the other cadres such as TGT. Therefore, while senior scale TGT got replaced in the same pay scale on promotion to PGT i.e. Rs.6500-10500/-, the Assistants, on the other hand, were already in the substantive scale of Rs.6500-10500/- as a result of substantive pay revision when the 6th CPC had not given his recommendations. Therefore, the two are clearly on separate footing and the question of addition of one increment in the case of TGT will not apply. Moreover, the two cadres are completely different as regards job responsibilities and nature of work and hence such cross-cadre comparisons are erroneous. We, therefore, come to the conclusion that there is no infirmity in the orders/clarification dated 10.12.2009 issued by the respondents in respect of the Assistants/Personal Assistants cadre and this will not automatically apply on the TGT/ PGT cadre.

10. We do not feel that the judgment of the Honble Supreme Court in Bhagwan Sahai Carpenter (Supra) is applicable in this particular case because here the nature of job and duties and circumstances behind clarification dated 10.12.2009 are completely different and thus not applicable.

OA is, therefore dismissed. No costs.

(P.K.BASU)
MEMBER (A)

(V.AJAY KUMAR)
MEMBER (J)

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