

(2024) 10 CAT CK 0018

In the Central Administrative Tribunal

Case No : Original Application No. 260, 00211 Of 2020

Bijaylaxmi Das

APPELLANT

Vs

Commissioner, Kendriya Vidyalaya Sangathan. 18,
Institutional Area, Saheed Jeet Singh Marg. New Delhi,
110016 & Ors.

RESPONDENT

Date of Decision : 30-10-2024

Acts Referred:

Citation : (2024) 10 CAT CK 0018

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das,
Member (A)

Bench : Division Bench

Advocate : D.P. Dhalsamant, H.K. Tripathy

Final Decision : Disposed Of

Judgement

Sudhi Ranjan Mishra, Member (J)

1. Applicant has preferred this OA on 29.05.2020 praying inter alia for the following reliefs:

"8.1 That the order dated 12.03.2020 (A/8) be quashed.

8.2 That the respondents be directed to grant senior scale of PGT to the applicant w.e.f. 20.11.2014 with all consequential service benefits.

8.3 That any other order/orders as it would be deem fit and proper..."

2. Respondents filed counter objecting to the prayer of the applicant.

3. Heard. Perused the records.

4. According to the applicant, although she was entitled for the Senior Scale on completion of 12 years of service w.e.f. 20.11.2014, but she was actually granted the same w.e.f. 03.01.2016 on completion of the in-service training course. She represented for grant of senior scale w.e.f. 20.11.2014, by relaxing one day of

the in-service training course since she did not complete the in-service training as required under the rules for the reasons not attributable to her. The representation was rejected vide order dated 20/21.8.2018 stating that since she did not complete 21 days of in-service training course although she was sent for in-service training course from 20.11.2008 till 19.11.2014. Hence, she approached this Tribunal earlier in OA No. 11/2019, which was disposed of on 05.02.2020 directing the respondents to reconsider her representation in the light of the circular dated 02.06.2004. It is submitted that the respondents rejected the grievance of the applicant once again without due application of mind and without following the direction of this Tribunal in its letter and spirit vide order dated 05.02.2020. The next contention of the Ld. Counsel for the applicant is that as per the rules in-service training in each year to the teachers is mandatory. But, no such training was arranged in each year from 20.11.2008 except in the year 2012 and 2014 and, therefore, the respondents cannot take the advantage of their own mistake to deprive the applicant her legitimate right for getting the Sr. Scale w.e.f. 20.11.2014. Hence, according to the Ld. Counsel for the applicant, the order of rejection, in the aforesaid circumstances, being a nullity is liable to be quashed.

5. On the other hand, Ld. Counsel for the respondents has submitted that in compliance of the order of this Tribunal, the service records of the applicant was reverified and it was found that the applicant while working as PGT (Maths) in KV No.1 Cuttack was given opportunity to attend in-service course vide circular dated 06.12.2012 but she denied to go for such in-service training on 10.12.2012 (R/1). Again, such opportunity was given to her on 28.01.2014 (R/2), which she also denied. The circular dated 02.06.2004 provides that the individual teacher, who was provided sufficient opportunities by KVS to attend the required 03 weeks Inservice Course during last six years prior to due date for becoming eligible to Senior/Selection Scale but the teacher concerned refrained from attending such course on one pretext or the other, in such cases he/she may be granted Senior/Selection Scale only from the date of completion of 03 weeks training course. In case in any particular case it has been established by the competent authority that attending of Inservice Course when deputed prior to the due date was beyond the control of individual concerned he/she may be allowed Senior /Selection Scale from the due date that too after completion of 03 weeks Training Programme. It was found that non-completion of in service training was not due to the fault of the respondents and, therefore, when she had completed the in-service training, she was granted the Sr. Scale w.e.f. 03.01.2016. It is submitted that there is no provision for condonation of the shortfall period of the in-service training and, therefore, the prayer of the applicant to condone the shortfall period of in-service training and grant her the Sr. scale w.e.f. 20.11.2014 is not in accordance with rules/law. Ld. Counsel for the respondents has placed copies of the orders of this Tribunal dated 29.11.2023 in OA No. 685/2016 and dated 08.01.2024 in OA No. 683/2015 to substantiate that since the similar prayer of the similarly placed teachers have

been rejected, this OA is also liable to be dismissed.

6. We have considered the rival contentions of the parties. It may be recorded that entitlement of the Sr. Scale w.e.f. 20.11.2014 by the applicant is not in dispute. It is also not in dispute that she was granted the said Sr. Scale w.e.f. 03.01.2016 on completion of the in-service training. The only question that arises for consideration as to whether the shortfall period of training can be condoned by the respondents in respect of the applicant to grant her the benefit and/or in absence of any document not conducting the in-service training on regular interval of each year by the respondents can be tilted in favour of the applicant. Grant of Sr. Scale pay, completion of 21 days in-service training is a pre-condition as per the rules. The applicant has not produced any authority to show that the respondent are competent to condone the shortfall period of in-service training for grant of Sr. Scale to a Teacher. In view of the above, going by the earlier orders of this Tribunal dated 29.11.2023 in OA No. 685/2016 and dated 08.01.2024 in OA No. 683/2015 and the stand taken by the respondents in their pleadings and in course of hearing, we see no justifiable reason to interfere in the matter but, at the same time, this Tribunal cannot close its eyes to the very fact that the respondents failed to substantiate by producing any documentary evidence that like the year 2012 and 2014, at any point of time any such type of opportunity was given to the applicant to complete the in-service course so as to be eligible for Sr. Scale w.e.f. 20.11.2014 instead of 03.01.2016. However, we find that for the first time this point has been raised by the applicant before this Tribunal and, therefore, for the ends of justice, we feel that the matter is to be remitted back to the respondents to verify the records as to whether despite opportunities in each year starting from 2008 till 2014 though opportunity was given to the applicant but she refused to avail like the refusal made in the year 2012 and 2014. Upon verification, if it is found that no such opportunity was granted on each year, then the respondents to pass appropriate order preponing the date of grant of Sr. Scale to the applicant w.e.f. 20.11.2014 and, if it is found that despite opportunity she did not avail the same, in such an event she is not entitled to Sr. Scale to the applicant w.e.f. 20.11.2014. The entire exercise, as directed above, shall be completed within a period of 180 days from the date of receipt of a copy of this order.

7. In the result, this OA stands disposed of leaving the parties to bear their own costs.