
(1992) 01 DEL CK 0058

In the Delhi High Court

Case No : Civil Writ Petition No. 784 of 1977

Shakuntla Paul

APPELLANT

Vs

The Lt. Governor and Others

RESPONDENT

Date of Decision : 30-01-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 46 DLT 456

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : K.C. Grover, D. Khadaria, G.K. Sharma and M.S. Kapoor, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The short question involved In this writ petition is that, whether, the petitioner is entitled to the Selection Grade, which was introduced on November 26, 1971, for Trained Graduate Teachers (for short TGT) and Language Teachers.

(2) The petitioner was appointed as Senior Language Teacher Grade Ii on July 15, 1954. She was confirmed as such with effect from July 16, 1955 and was granted Diploma by the Department of Education on November 2, 1955. Thereafter, she passed her M.A. examination in Hindi in the year 1968, She was promoted as Post Graduate Teacher Hindi (for short PGT) with effect July 27, from 1969, prior to the introduction of the Selection Grade for Tgt and Language Teachers. The petitioner has further submitted that she discovered on August 4, 1974, that an unauthorised interpolation in her service book was made showing her to be a Pgt on permanent basis.

(3) The post of Pgt is admittedly higher than the post of Tgt and Language Teacher. However, with the inception of the Selection Grade for the post of TGTs and Language Teachers, the salary of the Selection Grade Language Teachers became higher than the salary of PGTs The sole contention of learned Counsel for

petitioner is that despite the fact that she was promoted as Pgt, she was not confirmed in the said post and she continued to maintain her lien as Language Teacher. He seeks support from the judgment of this Court in *Nand Kishore v Lt. Governor. Delhi and Others* 1973 (2) S.L.R. 666. The said judgment was subsequently confirmed by a Division Bench of this Court in *Letters Potent Appeal Nos. 198-199 of 1973 Lt Governor of Delhi and Others v. Nand Kishore* 1974 (2) S.L.R. 894.

(4) The Counsel has further argued that respondent no 5 could not have been granted Selection Grade as she was far junior to the petitioner, having been recruited on October 20, 1961 and was subsequently confirmed after one year as Tgt (Assistant Teacher). On the other hand, it is contended by learned Counsel for respondent no. 5 that she has all along been treated as Language Teacher whereas, the petitioner got absorbed as Pgt and is deemed to be confirmed in that position.

(5) Learned Counsel for Delhi Administration has submitted that either the petitioner or respondent no, 5 would get the benefit of Selection Grade in view of the limit fixed as 15 per cent by the Directorate of Education. I had asked Mr. S.K. Mahajan to take necessary Instructions to find out if, the petitioner, who has since retired and served the position for large number of years with effect from the year 1954, could be given the benefit Selection Grade, which would accrue to her if she was treated as a Language Teacher, without depriving respondent no. 5 of the Selection Grade. The stand of respondent no. 3 has been that the petitioner ought to have got the Selection Grade as a Language Teacher and respondent no. 5, being junior to her was not entitled to the same. However, the Directorate of Education has found in favor of respondent no. 5 and has given her Selection Grade, on the ground that petitioner had already been confirmed as Pgt and, Therefore, she was not entitled to the same as Language Teacher.

(6) It will not be necessary for me to go into the detailed facts and controversy, which is being raised in the present petition. The Counsel are agreed that the petitioner is also a senior most Pgt and she has been on that post from July 26, 1969. The Selection Grade for Pgt, is slightly higher than the Selection Grade, as available for Tgt and Language Teachers and the same was introduced in 1971-72.

(7) The learned Counsel for Delhi Administration, as well as, Counsel for respondents submit that the petitioner admittedly is the seniormost Pgt teacher and the same is borne out from the record. There is no reason why the petitioner could not be granted Selection Grade as Pgt, which is slightly higher than the Selection Grade of the Tgt and Language Teachers. It will be in the interest of justice to grant the scale of Selection Grade in Pgt to the petitioner from the academic year 1971-72 onwards. The said scales are indicated in a communication No. EQ/2.111/G/2878 dated May 15, 1973, annexure A-3 to the writ petition.

(8) The petitioner has already been superannuated and it will be unjust to deprive her of the Selection Grade, in view of her long years of service as a teacher, as well as, her being the seniormost in that category. She will, Therefore, be entitled to the Selection Grade as PGT. I direct accordingly. The petitioner will also be entitled to superannuary benefits, on the basis of the revised pay, which will accrue to her as a result of this order. I make it clear that respondent no. 5 will not be affected by this order and she will be entitled to the Selection Grade as Language Teacher, which had earlier accrued to her. This will be most equitable and just in the circumstances of the case.

(9) The writ petition, as a consequence, is disposed of in the above terms. No order as to costs.

(10) The respondent Administration shall give arrears to the petitioner and other superannuary benefits within 2 months from today. Petitioner shall be treated as confirmed for the purpose of Selection Grade and other benefits. Petition allowed accordingly.