

(2024) 10 CAT CK 0013

Central Administrative Tribunal Principal Bench, New Delhi

Case No: Original Application No. 4031 Of 2024

Sanjay Kumar, Id ♦ 20080299

APPELLANT

Vs

Govt. Of NCT, Delhi, Through The
Principal, Secretary (Education),
Old Secretariat, Sham Nath
Marg, Delhi ♦ 54 & Ors.

RESPONDENT

Date of Decision: Oct. 25, 2024

Acts Referred:

- Administrative Tribunals Act, 1985 - Section 20

Hon'ble Judges: Manish Garg, Member (J); Dr. Anand S. Khatri, Member (A)

Bench: Division Bench

Advocate: Ranjit Sharma

Final Decision: Disposed Of

Judgement

Manish Garg, Member (J)

1. By way of the present OA, the applicant has prayed for the following reliefs:

• direct the respondents to grant notional service to the applicant w.e.f. 7-01-2005 the date on which his immediate junior was appointed as TGT

(Maths) against Post Code 0088 under the Directorate of Education, GNCTD effective for all purposes, i.e., seniority, promotion and upgradation

under the MACP Scheme and accordingly, fix his pay at par with his juniors releasing the arrears thereof along with interests.

2. The applicant has preferred the present Original Application seeking a direction to the respondents to grant him the benefit of notional service w.e.f.

07.01.2005, i.e., the date on which his immediate junior was appointed as Trained Graduate Teacher (Maths) against Post Code 0088 under the

Directorate of Education, Govt. of NCT of Delhi, effective for all purposes, i.e., seniority, promotion and financial up-gradation. Further, the applicant has also prayed for consequential reliefs, such as, fixing of his pay at par with his juniors and arrears along with interest.

3. Mr. Ranjit Sharma, learned counsel for the applicant submitted that though the respondents have correctly assigned seniority to the applicant, however, they have not accorded correct pay-fixation and, therefore, the applicant is receiving lesser salary than his junior for none of his fault.

Adding to his arguments, learned counsel, submitted that the wrong fixation of pay is a continuous cause of action as the applicant is suffering recurring losses every month and, thus, the same must be corrected by the respondents.

4. Drawing our attention to the legal notice dated 07.11.2023 sent by him to the respondents, on behalf of the applicant, learned counsel for the applicant submitted that in spite of the said legal notice, the respondents have not bothered to remove the said anomaly as regards pay fixation of the applicant.

5. Admittedly, the respondents have not passed any order on the aforesaid legal notice.

6. We would refer to the Section 20 of The Administrative Tribunals Act, 1985. The said Section reads as under:

“20. Applications not to be admitted unless other remedies exhausted. “

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules

as to redressal of grievances,-

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules,

rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to

the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.â€

7. On a perusal of the records of the OA, we find that there is no document on record to establish that the applicant has ever ventilated his grievance

himself before the respondents by way of a representation, which is an essential requirement as per Section 20 of the Administrative Tribunals Act for

admission of an Application. We are conscious of the fact that the wordings used in the provisions of Section â€" 20 of the Administrative Tribunals

Act, 1985 ipso facto contemplate that a person without exhausting the alternative remedies cannot approach this Tribunal. The applicant is seeking

notional benefit of service w.e.f. 07.01.2005, i.e., the date on which his immediate junior was appointed as TGT (Maths). The factual aspect of the

matter, as to whether, the case of the applicant is akin to his immediate junior is to be looked into by the respondents at the first instance. The

respondents are yet to take a call on that aspect as neither any reason has been assigned till date nor the same has been brought on record by the

applicant. Accordingly, we had reserved this OA at the admission stage itself.

8. In view of the aforesaid, we are of the view, that the present OA is pre-mature as the applicant is yet to exhaust the remedy available to him under

the relevant service rules as to redressal of his grievances. Accordingly, we dispose of the present OA with a direction to the respondents to treat the

legal notice dated 07.11.2023 as a representation of the applicant and dispose of the same by passing a reasoned and speaking order thereon within a

period of 45 days. The applicant shall be at liberty to challenge the said order which would be passed by the respondents on his representation, if so

advised.

9. We make it clear that nothing in this order shall be construed as our opinion upon the merits of the matter.

10. Pending MAs, if any, shall also stand disposed of. No costs.