

DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT,
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI,
1st Floor, MAHARANA PRATAP ISBT BUILDING,
KASHMERE GATE, NEW DELHI-110006

No. F.9(120)/Admn/WCD/Misc. Corres/2018/Part File/ 28342-46

Dated:

ORDER

19 MAR 2020

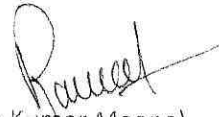
Subject: In the matter of Smt. Krishna Kumari and Ors. Vs. Union of India and Ors in WP(C) 4037/2014.

I am directed to forward the copy of order dated 23.01.2020 (copy enclosed) passed by the Hon'ble High Court of Delhi in the above mentioned matter which is self explanatory and forwarded vide SO(Admn-II), DSW Letter No. F.4A(438)/DSW/LC/20041/28293 dated 05.03.2020 (copy enclosed).

The Court has ordered to fix the pay-scale of the Petitioners at par with their counterpart TGTs working in the Deptt. of Education at Rs. 5500-9000 w.e.f. 01st Jan 1996, for the entire period during which the recommendations of the 5th CPC were effective. The arrears be paid not later than 12 weeks from today, failing which simple interest at 6% per annum will become payable to the Petitioners on the said sum for the period of delay. For such of those Petitioners, who have in the meanwhile superannuated, the pensionary benefits will be recalculated on the basis of the decision, without arrears of pay accruing to them, and the appropriate orders issued within the same period of twelve weeks.

All the concerned DDO/HOO, of the TGT named in said order who are drawing the salary from Department of Women & Child Development, are hereby directed to submit pay fixation proposal to Administration Branch in compliance with the directions of the Hon'ble Court within the stipulated time as directed by court and send ATR to this office within one week. This may be treated as Most Urgent.

Enclosure: As above.


(Ravindra Kumar Meena)
Section Officer (Admn.)

 All DDO/HOO of DWCD

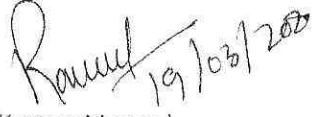
No. F.9(120)/Admn/WCD/Misc. Corres/2018/Part File/ 28342-46

Dated:

19 MAR 2020

Copy for information and necessary action to:-

1. SO to Director, WCD(HQ)
2. Dy. Director, Admn, WCD(HQ)
3. Section Officer(Admn.-II), Department of Social Welfare, GNCTD, Delhi Gate-02.
4. Concerned officials through concerned DDO/HOO
5. Asstt. Programmer, WCD with the request to upload the letter alongwith the court Order on the website of the Department


(Ravindra Kumar Meena)
Section Officer (Admn.)

DEPARTMENT OF SOCIAL WELFARE
GOVERNMENT OF NCT OF DELHI
GLNS COMPLEX, DELHI GATE,
NEW DELHI - 110002

F.4A(438)/DSW/LC/2004/28293

Dated: 05 MAR 2020

To

✓ The Dy. Director (Admn),
Department of Women & Child,
Sewa Kuteer Complex, Kingsway Camp,
New Delhi.

4805/10/17
06/03/2020

**Sub: In the matter of Smt. Krishna Kumari and Ors Vs Union of India and Ors
in WP (C) 4037/2014.**

Sir,

Please find enclosed herewith a copy of order dated 23 Jan 2020 passed by the Hon'ble High Court of Delhi in the above mentioned matter which is self-explanatory. The Court has ordered to fix the pay-scale of the Petitioners at par with their counterpart TGTs working in the Deptt. of Education at Rs. 5500-9000 w.e.f. 01st Jan 1996, for the entire period during which the recommendations of the 5th CPC were effective. The arrears be paid not later than 12 weeks from today, failing which simple interest at 6% per annum will become payable to the Petitioners on the said sum for the period of delay. For such of those Petitioners, who have in the meanwhile superannuated, the pensionary benefits will be recalculated on the basis of the decision, without arrears of pay accruing to them, and the appropriate orders issued within the same period of twelve weeks.

You are requested to comply the directions of the Hon'ble Court within the stipulated time as directed by the Court and send ATR to this office latest by 05/03/2020 in respect of petitioners working/superannuated from your Department. (copy of list annexed).

Encl.: As above.

Sh. Bharti
Section Officer (Admn-II)

Received 05/03/2020

Hem Lata Negi,
Working as T.G.T.
S.M.R.C. Delhi Gate,
Delhi.

4. Kaushalya Aneja
Working as T.G.T.
Asha Kiran Avantika,
Rohini, Delhi.

5. Jagram Meena,
Working as T.G.T.
Children Home for Boys,
Kasturba Niketan,
Lajpat Nagar,
Delhi.

6. Sachida Nand,
Working as T.G.T.
Children Home for Boys,
Narela, Delhi.

7. Gulab Singh,
Working as T.G.T.
Govt. Sr. Sec. School
for Blind Boys,
Sewa Kutir, Kingsway Camp,
Delhi.

... Applicants

(By Shri S.K. Gupta, Advocate)

vs.

1. Union of India,
Through Secretary,
Ministry of Finance,
Department of Expenditure,
(Implementation Cell)
Bikaji Cama Place,
New Delhi

2. Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
IP Estate, IG Stadium,
New Delhi.

3. Secretary-cum-Director,
Department of Social Welfare,
Govt. of NCT of Delhi,
Kasturba Gandhi Marg,
New Delhi.



..... Respondents

(By Shri Ajay Gupta, Advocate)

Aggrewal P. 1

2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 588/2002

with

O.A. NO. 590/2002

New Delhi this the 13th day of March, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI A.P. NAGRATH, MEMBER (A)

O.A. 588/2002

1. Rajni P. Puranik,
Working as T.G.T.
Sanskar Ashram (Girls)
Dilshad Garden,
Delhi.
2. Shakuntla Devi,
Working as T.G.T.
Nari Niketan,
Jail Road,
Delhi.
3. Shakuntla Devi Mann,
Working as T.G.T.
Asha Kiran Avantika,
Behni,
Delhi.
4. N.T. Rizvi,
Working as T.G.T.
Children Home,
Lajpat Nagar,
New Delhi.
5. Uma Chaudhary,
Working as T.G.T.
S.M.R.S.,
Delhi Gate,
Delhi.

(By) Shri S. Lad Gupta, Advocate

O.A. 590/2002

1. Krishna Kumar,
Working as T.G.T.
Govt. Sr. Sec. School
For Blind Boys,
Sewa Kedar, Kingsway Camp,
Delhi.
2. Sumitra Devi,
Working as T.G.T.
After Care Home,
Narela,
Delhi.



COURT MATTER

DEPARTMENT OF SOCIAL WELFARE
GOVT. OF N.C.T. OF DELHI, GLNS COMPLEX
DELHI GATE, NEW DELHI-02
(LITIGATION BRANCH)

Subject: - In the matter of KRISHNA KUMARI AND ORS Vs UNION OF
INDIA AND ORS. in W.P.(C) 4037/2014

Please find enclosed herewith a copy of order dated 23 January 2020 passed by Hon'ble High Court of Delhi in above mentioned matter which is self explanatory. The Court has stated that:

"For the aforementioned reasons, the impugned order dated 4th April, 2014 of the CAT is hereby set aside. A direction is issued to the Respondents to fix the pay-scale of the Petitioners at par with their counterpart TGTs working in the Department of Education at Rs. 5500-9000 with effect from 1st January, 1996, for the entire period during which the recommendations of the 5th CPC were effective. The arrears be paid not later than 12 weeks from today, failing which simple interest at 6% per annum will become payable to the Petitioners on the said sum for the period of delay. For such of those Petitioners, who have in the meanwhile superannuated, the pensionary benefits will be recalculated on the basis of the decision, without arrears of pay accruing to them, and the appropriate orders issued within the same period of twelve weeks."

You are requested to comply the direction of the Hon'ble Court within a specified time as directed by Hon'ble Court.

151/DD(A)
01/01/2020

For immediate action/pls
30-1-2020

SP(A-II)

4/1/2020

DA

Sumahem

The Deputy Director (Admn-II)

Department of Social Welfare

U.O No: F4A(438)/DSW/LC/HC/2011/40

29/01/20

(Rajiv Ranjan Lakra)
Supdt. (Litigation)

Dated: 29/1/2020

§~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4037/2014**

KRISHNA KUMARI AND ORS

..... Petitioners

Through: Mr. B.R.Sharma, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Indira Karki, Advocates for R-2 and R-3.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

23.01.2020

6.0

1. The Petitioners are aggrieved by an order dated 4th April, 2014 passed by the Central Administrative Tribunal, Principal Bench ('CAT') dismissing the TA No.70/2013, whereby the Petitioners' prayer that they should be granted parity of pay scales for the period covered by the recommendations of the 5th Central Pay Commission ('CPC') with Trained Graduate Teachers ('TGTs') working in the Department of Education, Government of NCT of Delhi ('GNCTD') was rejected.

2. The issue before the CAT was in a narrow compass. Admittedly, the Petitioners who are TGTs with the Department of Social Welfare are being given the same pay scale as their counterparts in the Department of Education in terms of the recommendations of the 4th and 6th CPC and,

subsequent thereto, even under the 7th CPC.

3. Primary teachers with the Social Welfare Department of GNCTD, are being treated at par with their counterparts in the Department of Education even as per the 5th CPC. Therefore, it is the narrow band of the Petitioner TGTs, around 13 teachers, who are being deprived of parity of pay scales with their counterparts in the Department of Education and, that too, only for the period covered by the recommendations of the 5th CPC.

4. In the impugned order, the CAT has held that merely because the 4th and 5th CPC recommended the same pay scale for the Petitioners and their counterparts "it cannot be viewed that they were also entitled to pay parity during the period covered by the recommendations of 5th CPC". A reference was made to the decision dated 25th November, 2005 of this Court in LPA No. 430/2000 (*Union of India v. Lal Bahadur Singh*) which concerned certain personnel of paramilitary force. The CAT also referred to the decision of the Supreme Court in *State of Haryana v. Haryana Civil Secretariat Personal Staff Association* (2002) 6 SCC 72 and *Union of India v. P.V. Hariharan* 1997 (2) SLR 232, for the proposition that the task of taking decisions in relation to fixation of pay scale lies primarily within the domain of expert bodies like the CPC.

5. The Court fails to appreciate the approach adopted by the CAT, particularly, when in the present case the recommendations of the 4th and 6th CPC have fact accepted the case of the Petitioners for parity of pay scale with their counterparts in the Department of Education, GNCTD. In other

words, an expert body, namely, the CPC, has agreed that the same task performed by the Petitioners, who are TGTs in the Social Welfare Department cannot be differentiated from that performed by their counterparts in the Department of Education and that they are entitled to be treated at par with them. Therefore, by requiring the Respondents to adopt the same approach for a period covered by a different CPC, the CAT, or for that matter, this Court is not superimposing its views on that of the CPC, except to say that the consistent view of the CPC reflected in the recommendations made by the 4th and 6th CPC should hold good for the period covered by the recommendations of the 5th CPC as well.

6. It is nobody's case that there is any difference in either the qualifications or the functions performed by the Petitioner TGTs during the period covered by 5th CPC, when compared with that performed during the period earlier and later thereto. In other words, given that there has been no change in circumstances, the Court sees no reason why only for the period covered by the 5th CPC, the Petitioner should be deprived of the benefit of parity of pay scales with their counterparts.

7. The Court has perused the counter affidavit filed on behalf of the Respondents Nos. 2 and 3, the main contesting parties in the present petition. The stand taken therein is not different from the stand taken before the CAT, viz., that the anomaly in relation to pay scales cannot be removed until recommendations are issued by the CPC and accepted by the Government. The argument that duties and responsibilities of the Petitioners TGTs are not at par with their TGT counterparts in the Department of

Education, for the reasons set out in the counter affidavit, can no longer hold good for the simple reason that the 4th and 6th CPCs have negated this argument while recognizing the entitlement of the Petitioner TGTs to be treated at par with their counterparts in the Department of Education.

8. For the aforementioned reasons, the impugned order dated 4th April, 2014 of the CAT is hereby set aside. A direction is issued to the Respondents to fix the pay-scale of the Petitioners at par with their counterpart TGTs working in the Department of Education at Rs.5500-9000 with effect from 1st January, 1996, for the entire period during which the recommendations of the 5th CPC were effective. The arrears be paid not later than 12 weeks from today, failing which simple interest at 6% per annum will become payable to the Petitioners on the said sum for the period of delay. For such of those Petitioners, who have in the meanwhile superannuated, the pensionary benefits will be recalculated on the basis of this decision, without arrears of pay accruing to them, and the appropriate orders issued within the same period of twelve weeks.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 23, 2020

mr

Education, for the reasons set out in the counter affidavit, can no longer be good for the simple reason that the 4th and 6th CPCs have negated the argument while recognizing the entitlement of the Petitioner TGTs to be treated at par with their counterparts in the Department of Education

8. For the aforementioned reasons, the impugned order dated 4th April, 2014 of the CAT is hereby set aside. A direction is issued to the Respondents to fix the pay-scale of the Petitioners at par with their counterpart TGTs working in the Department of Education at Rs.5500-9000 with effect from 1st January, 1996, for the entire period during which the recommendations of the 5th CPC were effective. The arrears be paid not later than 12 weeks from today, failing which simple interest at 6% per annum will become payable to the Petitioners on the said sum for the period of delay. For such of those Petitioners, who have in the meanwhile superannuated, the pensionary benefits will be recalculated on the basis of this decision, without arrears of pay accruing to them, and the appropriate orders issued within the same period of twelve weeks.

S. MURALIDHAR, J.

TALWANI SINGH, J.

JANUARY 23, 2020

mr

B.P.(C) 4037/2014