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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10135/2017, CM APPL. 41360/2017 and CM APPL. 22507/2019**

UNION OF INDIA & ORS

..... Petitioners

Through: Mr. V.S.R. Krishna, Advocate.

versus

HEM NATH MISHRA & ANR

..... Respondents

Through: Mr. AK Bhardwaj, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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21.01.2020

1. From the counter affidavit filed by Respondent No.1 on 9th May, 2019, it is seen that he had worked on a regular basis in the Ordnance Factory, Inter College at Muradnagar, Uttar Pradesh for 17 years prior to his termination. He even earned one financial upgradation.

2. The Court also takes note of the order passed on 26th October, 2018 by the Department of Defence Production, Ministry of Defence, whereby it has been observed that it is impractical at this stage, when Respondent No.1 has already crossed the age limit for applying for the post of TGT and with an additional qualification of CTET/State TET certificate being included in the minimum qualification requirements, to consider his case for age relaxation, pursuant to the order passed by the Supreme Court dated 8th October, 2013

in Civil Appeal No.9135-36/2013 (*Hem Nath Mishra v. Satyawati Devi & Ors.*) read with the impugned order of the Central Administrative Tribunal (‘CAT’) dated 2nd September, 2016 in OA No.1135/2015.

3. The fact of the matter is that Satyawati Devi, Respondent No.2 herein, who was Respondent No. 4 before the CAT, has chosen not to appear throughout after succeeding in the Allahabad High Court. As noted by the Supreme Court itself in its order dated 8th October, 2013, she did not report for duty as a Teacher in the Ordnance Factory School/Inter College. The Court notes that before the CAT, it was the Petitioners herein who drew its attention to the fact that when they sought a clarification regarding the experience certificate of Respondent No. 4 from the organisation, where she claimed she was teaching i.e. the Inter College, Sadarpur, Ghaziabad, they received a reply from the said College dated 7th July, 2011 that “her claim to have performed teaching from 15th September, 1992 to 31st January, 1994 and prior to that from 10th July, 1989 to 20th July, 1992 was not correct and during that period she had never worked in that college at all.” It ultimately turned out that she filed a reply on 28th September, 2011 stating that her original teaching experience certificate could not be traced or located by her and that she would, therefore, not be able to produce the same.

4. It is not clear whether these facts were brought to the notice of the Supreme Court when it passed the order on 8th October, 2013. It is possible that if these facts were placed, the Supreme Court may have directed that in the vacancy thus created by the non-reporting of Respondent No. 2 herein, the Respondent No.1 herein who was at Serial no. 2 in the select list should

have been offered the appointment.

5. Nevertheless, the Court considers it to be appropriate to direct that given the fact that the Respondent No. 1 has worked on a regular basis in the Ordnance Factory, Inter College, Muradnagar for 17 years, his case for grant of *pro rata* pension should be favourably considered. The Court also takes note of the fact that even after his termination he has been continued on contractual basis as a Sanskrit Teacher till date.

6. The Court permits the Respondent No. 1 to make a detailed representation within four weeks to the Petitioners for grant of the above relief, and if the representation is so made, the Petitioners will consider it in light of the observations of this Court in the present order and pass an appropriate order not later than eight weeks thereafter. The decision of the Petitioners be communicated to Respondent No.1 within two weeks thereafter. If the Respondent No.1 is aggrieved by such decision, it will be open to him to seek appropriate remedies in accordance with law.

7. This order is in substitution of the impugned order of the CAT. The petition is disposed of in the above terms. The pending applications are also disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 21, 2020/ pa