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

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Decision delivered on: 15.12.2021

+ **W.P.(C) 12659/2021**

VIJAY SINGH & ANR

.....Petitioners

Through: Mr Sanjay Mani Tripathi, Advocate

versus

THE CHAIRMAN, NDMC AND ORS

.....Respondents

Through: Mr Ankur Chhibber, Advocate for R-1 to 4.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This writ petition is directed against the order dated 16.07.2021, passed by the Central Administrative Tribunal [in short 'the Tribunal'] in O.A. No. 1339/2021.

1.1. *Via* the impugned order dated 16.07.2021, the original application filed by the petitioners' was dismissed by the Tribunal.

2. The principal grievance of the petitioners is that, they have not been accorded the seniority, which was given to their batch mates. In order to appreciate this submission advanced on behalf of the petitioners, the following facts are required to be noticed.

2.1 The petitioners, who were shortlisted, pursuant to advertisement no. 002/98, were called for verification of documents on 12.10.1998, for the post of Assistant Teacher against Post Code 10/98.



2.2 Although the petitioners were selected, they were not granted appointment to the subject post on account of discrepancy in their caste certificates.

2.3. Consequently, the petitioners approached this Court by way of writ petition(s) under Article 226 of the Constitution of India. However, it was only in the appeal(s) preferred with the Division Bench that relief was granted to the petitioners and other persons, who were similarly circumstanced.

2.4 The Division Bench, *vide* judgment dated 15.12.2000, passed in a bunch of appeals including LPA Nos. 95/2000 and 304/2000, titled ***Delhi Subordinate Services Selection Board vs. Taj Pal Singh***, issued the following direction:

“The appellants are directed to consider the respondents for the post of Assistant Teacher and if found suitable to appoint them in accordance with law.”

2.5. The DSSSB carried the matter to Supreme Court, by way of Special Leave Petition (SLP) No. 4826/2001, which was dismissed on 16.04.2001.

2.6. Resultantly, the petitioner nos. 1 and 2 were appointed to the subject post, on 10.07.2001 and 09.07.2001.

2.7. It appears that the petitioners, thereafter, made representations for according them the same seniority, which had been given to their batch mates who were appointed in July 1999, against the same post under post code 10/98.

3. The record shows that the seniority list was published, if not earlier, certainly on 18.08.2004, followed by a new seniority list which was published on 10.03.2006.

3.1. These dates are discernible from a communication dated 10.04.2006



addressed by petitioner no.1 to the respondents. This communication also refers to earlier representations dated 07.03.2005 and 19.12.2005, lodged by petitioner no.1 with the respondents.

3.2. The record also shows that, *via* order dated 06.07.2011, the representation made to give effect to petitioner no.1's seniority from 1999 was rejected. The reason provided in this order was that the aforementioned decision of the Division Bench dated 15.12.2000, did not issue any such direction.

4. Mr Sanjay Mani Tripathi, who appears on behalf of the petitioners, informs us that, after the order dated 06.07.2011, the next representation was made by petitioner no.1 on 19.10.2020.

4.1. The record also shows that petitioner no.2 made a representation with the same purpose in mind on i.e., re-fixing her seniority on 10.02.2021.

4.2 It is averred that no action has been taken by the respondents on the representation made by petitioner no.2.

5. According to us, there are several impediments in the way of the petitioners:

(i) The Division Bench order dated 15.12.2000, whereby a direction was issued to the respondents to consider the petitioners' case along with those similarly circumstanced for appointment, did not issue any direction with regard to the seniority.

(ii) As held by the Tribunal, seniority can be ordinarily fixed only from the date when the appointment is made i.e., the employee is borne in the cadre.

(iii) The petitioner no.1 did not take recourse to a legal remedy, although, his plea for according re-fixing seniority was rejected as far back as on



06.07.2011. On the other hand, petitioner no.2 did not make a representation up-until 10.02.2021.

(iv) As indicated above, even between 2004 and 2010, the petitioners did not take any steps to take recourse to a legal remedy, although the seniority lists were published on 18.08.2004 and 10.03.2006.

(v) Furthermore, it is likely that if seniority is re-fixed it may impact the interest of other employees of the respondents. The petitioners failed to array all those who were likely to get impacted as parties to the action, filed before the Tribunal.

5.1. In sum, this is not a case in which we would like to interfere with the decision rendered by the Tribunal.

6. The writ petition is, accordingly, dismissed.

7. There shall be, however, no order as to costs.

RAJIV SHAKDHER, J

TALWANT SINGH, J

DECEMBER 15, 2021/d.negi

[Click here to check corrigendum, if any](#)