



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

% **Date of order: 27th September 2022**

+ **W.P.(C) 5704/2003**

KRISHAN GOPAL ARYA Petitioner

Through: **Mr. R.S. Tomar, Advocate**

versus

LT. GOVERNOR OF DELHI & ORS. Respondents

Through: **Mr. Satyakam, ASC with
Mr. Shadab Azhar,
Advocate**

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 and 227 of the Constitution of India has been filed on behalf of the petitioner seeking issuance of writ of mandamus against the respondents thereby directing them to fix the salary in the pay scale of the Principal w.e.f. 28-08-1992, which was at the relevant time at the scale of Rs. 2000-3500/-, and to pay to the petitioner all the benefits that may accrue on account of his pay fixation in the abovesaid pay scale alongwith all his arrears with interest @ 18% per annum. The petitioner is also seeking issuance of writ of mandamus thereby directing the respondents to adjust the petitioner against the post of Principal in the school run by the Government of NCT, on account of



closure of Shrimad Dayanand Gurukul Sanskrit Mahavidyalya, Khera Khurd, Delhi (hereinafter “School”).

2. The background of the instant matter is that the petitioner was appointed at the post of TGT (Sanskrit) by the Selection Committee on 2nd November 1979 in Shrimad Dayanand Gurukul Sanskrit Mahavidyalaya, private school recognized by the Delhi Administration. The terms and conditions of the petitioner and other employees were governed by the Delhi School Education Act and Rules, 1973. On the said date, the Director of Education conveyed the approval to the appointment of the petitioner as TGT (Sanskrit) in the pay scale of Rs. 440-750/-.

3. Thereafter, a vacancy opened at the School for the post of Principal and Departmental Promotion Committee (hereinafter “DPC”) was constituted to fill up the post. The DPC was held on 28th August 1992 and it is the case of the petitioner that he was appointed to the said post and he joined the post of Principal in the School.

4. It is the case of the petitioner that he was entitled to the same scale of pay and allowances, medical facilities, education, gratuity, provident fund and other prescribed benefits as were applicable to the employees of the corresponding status in the schools run by the appropriate authorities but the same was not granted to him. He made representations for fixation of his salary in the pay scale of Principal, however, no action was taken by the School Management.



5. Vide order dated 4th July 1996, the Director of the Education issued order for closure of the School and accordingly, the petitioner and other employees were adjusted in other schools run by the Government of NCT of Delhi. The petitioner was adjusted on the post of TGT instead of Principal in the new School, i.e., Sarvodaya Vidyalaya, Tikri Kund. The petitioner again made representations to adjust him at the post of Principal and fix his salary according to the said post, however, the same was to no avail. The petitioner, thereafter, served a legal notice to the School but also received no reply.

6. The petitioner, being aggrieved by the aforesaid actions of the Schools, has approached this Court by way of filing the instant petition.

7. Learned counsel for the petitioner submitted that the respondents' fixed the salary of the petitioner in the pay scale of TGT of Rs. 5500-175-9000/-, whereas his pay should have been fixed in the pay scale of Principal i.e., R. 7500-250-12000/- w.e.f. January, 1996 in as much as he was selected/promoted to the post of the Principal in the school after being selected by the Departmental Promotion Committee, which decision was accepted by the Managing Committee of the School.

8. It is submitted that when the petitioner was appointed at the post of Principal, the Director of Education was pleased to approve the promotion of the petitioner to the post of Principal in the School in the pay scale of Rs. 2000-3500/- w.e.f. 28th August 1992 itself, i.e., date of the meeting of the DPC and the aforesaid decision was conveyed by the Education Officer vide aforesaid letter dated 22nd September 1992 to the



Manager of the School.

9. It is further submitted that the petitioner at various occasions wrote letters and representations to the Management of the School and Deputy Director of the Education, including letters dated 7th October 1992, 19th November 1993, 31st January 1994, 14th May 1998, 9th September 1998 and 12th October 1998.

10. Learned counsel for the petitioner submitted that after absorption the petitioner was placed on the post of TGT instead of Principal and was being paid in the pay scale of TGT only. The petitioner was, thereafter, transferred to Government Boys Middle School, Sultanpuri, Delhi.

11. It is submitted that the petitioner has not received reply to the any of the representations made by him regarding fixation of pay in the pay scale of Principal and the concerned authorities, including the Management of the School had taken no action to ensure the enhanced pay scale of Principal, and therefore, he seeks the aforesaid reliefs from this Court.

12. *Per Contra*, learned Additional Standing Counsel appearing on behalf of the respondents vehemently opposed the instant petition and submitted that the petitioner was never promoted to the post of Principal. The salary of the petitioner, who was working as TGT, was rightly fixed in the scale of Rs.5500-9000/-. He has not disclosed as to how he was promoted from TGT to Principal without first being promoted as PGT and Vice Principal. It is submitted that there is nothing on record to show



that any DPC minutes were processed and approved by the Department.

13. It is submitted that the petitioner never challenged the decision/order of Lt. Governor by which he was adjusted as TGT and therefore, the petitioner by way of filing the instant petition could not challenge pay fixation at TGT pay scale. Therefore, the instant petition is liable to be dismissed for being devoid of any merit.

14. Heard learned counsel for the parties and perused the record.

15. The grievance of the petitioner is that despite being promoted to the post of Principal, he was never given the salary in the pay scale of Principal. On the absolute contrary, the very contention of the petitioner's promotion to the post of Principal has been disputed by the respondents. However, this Court, while exercising its writ jurisdiction, cannot conduct a roving inquiry into such disputed facts.

16. On a perusal of the record, offered to him it is found that vide order dated 3rd August 2017, the Coordinate Bench of this Court directed the respondents to produce the Recruitment/Promotion Rules of the School to the post of Principal, which are on record. As per the said Rules, the qualifications for being appointed to the post of Principal for recognized aided/unaided schools required '10 years experience of teaching as Vice-Principal, PGT in a Hr. Sen. Sec. School or Inter College.' The petitioner has contended that he was promoted/ appointed to the post of Principal when he was working as a TGT at the School and was considered for the vacant post for Principal by the DPC. This contention of the petitioner



remains to be unsubstantiated and unfounded in light of the abovementioned qualification required for consideration for the post of Principal in the School, since, he admittedly, did not have 10 years' experience of teaching as a Vice-Principal or PGT.

17. Moreover, it is informed to this Court that the petitioner never challenged or disputed his absorption in the subsequent schools, i.e., Sarvodaya Vidyalaya and Government Boys Middle School, where he was placed after Shrimad Dayanand Gurukul Sanskrit Mahavidyalaya was closed. Therefore, once he had accepted the appointment to the post of TGT, and not challenged the absorption at the post of TGT in the subsequent schools, the same cannot be set aside and the benefits that he seeks to derive from the alleged appointment to the post of Principal in the first School cannot be granted, at this stage, by this Writ Court.

18. Each title, post and designation have different benefits, including varied pay scale and salary, and the petitioner cannot surpass the procedures or qualifications that would actually entitle him to such enhanced pay scales and other benefits attached to the post.

19. In absence of a challenge to the absorption to the post of TGT, the same attained finality and the petitioner was deemed to have accepted the post of TGT as well as the pay scale offered to that post.

20. Therefore, keeping in view the facts and circumstances, the absorption of the petitioner in the scale of TGT which attained finality and disputed facts of the petitioner ever being promoted/appointed to the



post of Principal, this Court does not find any cogent reason to invoke its writ jurisdiction and issue a writ against the respondents.

21. Accordingly, the instant petition is dismissed for being devoid of merits. Pending applications, if any, also stand dismissed.

22. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 27, 2022
dy/ms



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