

R. DURAISWAMY AND ORS. A
v
DIRECTOR OF SCHOOL EDUCATION AND ORS.

DECEMBER 12, 2000

[S. RAJENDRA BABU AND SHIVARAJ V. PATIL, JJ.] B

Service Law :

Disparity in pay—Teachers absorbed in High School service and teachers promoted as Head Masters in Primary/Middle Schools—Held, they constitute different cadres of service and therefore no disparity. C

Petitioners, who were initially appointed as teachers in Panchayat Union Elementary Schools, were working in Middle Schools. The Middle Schools were upgraded as High Schools and the petitioners were transferred and absorbed in the High School service. Teachers, who were junior to the petitioners and continued in the Elementary Schools, were promoted as Head Masters in the Primary and Middle Schools and getting more pay than the petitioners. The Petitioners approached the State Administrative Tribunal for fixation of pay on par with the Head Masters in the Elementary Schools. The Tribunal, initially relying upon certain Government orders, held that the teachers of the Elementary and Middle Schools and the teachers of the High Schools constituted one service and granted relief. Subsequently, on review, the Tribunal rejected the claim of the petitioners. D E

In these Special Leave Petitions, the petitioners contended that they would have become Head Masters in the Primary/Middle Schools on the basis of their seniority if they continued their service in the Elementary Schools, and entitled to draw higher scales. F

Dismissing the appeals, the Court

HELD : 1. The claim of the petitioners is unfounded. If aggrieved, they should have chosen to get back to their parent schools and derived benefits, which were given to those who continued in the Panchayat Union Elementary Schools. On absorption in the High Schools, the petitioners ceased to be a part of the cadre of teachers serving in schools run by the Panchayat Union. The protection granted by the Government on which the Tribunal had earlier G H

A placed reliance was only in relation to pay and awarding of selection or special grade and that would not constitute one single cadre. [567-C]

Director of School Education & Anr. v. A.N. Kandaswamy & Anr., (1998)
5 SCALE 699, relied on.

B CIVIL APPELLATE JURISDICTION :

Special Leave Petitions (C) Nos. 11650-52 of 1997.

From the Judgment and Order dated 27.1.97 of the Tamil Nadu Administrative Tribunal, Madras in R.A. Nos. 51-53 of 1995 in O.A. Nos. 4698 to 4692 of 1994.

C

T. Raja for the Petitioners.

R. Mohan, Sr. Adv., M.A. Chinnsamy and A. Mariaputham, for Arputham and Aruna & Co. for the Respondents Nos. 2 to 5.

D

The Judgment of the Court was delivered by

RAJENDRA BABU, J. The Petitioners before us were appointed as teachers in the Panchayat Union Elementary Schools under the Tamil Nadu Elementary Education Subordinate Service. When they were working in such Middle Schools, they were upgraded as High Schools and the Petitioners were transferred to the High Schools. The Petitioners were absorbed in the High School Service but some of the teachers, who were stated to be junior to the Petitioners and who continued in the Panchayat Union Elementary Schools, were subsequently promoted as Head Masters in the primary and the Middle Schools run by the Panchayat Union. They were allowed to draw their pay in the scale of Rs. 2,000- 3,200 from 1.6.88 pursuant to G.O. issued on 5.10.1990. The result was that they started getting more pay than the Petitioners did.

E

F

G

H

In those circumstances the Petitioners and others approached the Tamil Nadu Administrative Tribunal [hereinafter referred to as 'the Tribunal'] for fixation of their pay on par with the Head Masters in the Panchayat Union schools. They contended that, apart from the unfairness of being paid lesser salary, had they continued in the Panchayat Union schools, they would have become Head Masters in the Primary/Middle Schools on the basis of their seniority and thus would have been entitled to draw such higher scales. The Tribunal relied upon certain Government orders and held that the teachers of the elementary and Middle Schools and the teachers of the High Schools

constituted one service and, therefore, granted relief to them in some of the applications filed before it. But in subsequent applications filed before the Tribunal, the matter was reviewed and the cases of the Petitioners were distinguished and their claim has been rejected. It is against this order that the Petitioners have now come before this Court. A

It is clear from the narration made above that the Petitioners had been working in the High Schools on the upgradation of the Middle Schools to High Schools. If they were really aggrieved, they should have chosen to get back to their parent schools and should have derived the benefits as were being given to those who continued in the Panchayat Unions School. On their absorption in the High Schools, they ceased to be apart of the cadre of teachers serving in schools run by the Panchayat Union. The protection granted by the Government on which the Tribunal had earlier placed reliance was only in relation to pay and awarding of selection or special grade and that would not constitute one single cadre. Therefore, the claim made by the Petitioners is unfounded. B C

Identical question was also considered by this Court in *Director of School Education & Anr. v. A.N. Kandaswamy & Anr.*, (1998) 5 SCALE 699 and following the said decision, for the reasons stated therein, we find no merit in these petitions and the same stand dismissed. No costs. D

B.S.

Petitions dismissed. E