

“No carelessness until there is a cure. Wear Mask, follow physical distancing & maintain hand hygiene.”

**PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Date of hearing: 21.10.2020

Complainant : Smt.Jyoti Leekha – Present.
Respondent : The Director,
Dte.of Education,
Govt.of NCT of Delhi,
Through Mrs.Bela Jain,
HOS/Vice-Principal
Govt.Girls Sr.Sec.School,
Jahangir Puri, Delhi – Present.
Grievance No. : PGC/2020/A.II/Edn./15

1. Brief facts of the complaint

1.1 Smt.Jyoti Leekha filed a grievance petition before the Public Grievances Commission. It is stated that she was continuously working on the post of Guest Teacher, TGT(Science), ID No.2013284920, in K-Block, GGSSS Jahangir Puri, Delhi from 2012 to 30th June, 2019. That due to wrong decision of the Principal, Smt. Veena Singh, she was relieved on 01/07/2019. She pursued the matter with the Dy.Director of Education, District North West-A, Zone-9 and other concerned officers but no action was taken on her complaint. Furthermore, she approached the Hon'ble CAT. Vide its order dated 15/01/2020 (OA No.2187/2019) the Hon'ble Court has set aside the order issued by the respondents on 01.07.2019 which reads as under:-

“Ms Jyoti Leekha, Guest Teacher: Emp.ID: 2013284920, TGT Natural Science, stands relieved w.e.f. 01/07/2019 from this School on account of surplus due to PFC w.e.f. 01/07/2019”.

It is further stated by her that the Hon'ble Court directed that *“keeping in view that the applicant has already been engaged at the same school, though in the evening session, the respondents are directed to treat the date of engagement of the applicant as 18.09.2013, when she had originally joined for the academic session 2013-2014 so that she does not unduly suffer the consequences of “Last in first out” policy issued vide order dated 02.07.2019.*

The respondents are also directed that they shall review the position for 2020-21 and if there is need for guest teachers in the morning session of the GGSSS K-Block, Jahangirpuri School, her claim for the same, under identity No.2013284920 with date of joining as 18.09.2013, shall be kept in view.”

The complainant further mentioned in her representation addressed to Director(Education), GNCT of Delhi, that the Hon'ble CAT has given directions to allow her to join in the morning shift of 2019-20 session in G.G.S.S.S. K-Block(1309260). She requested that she may be allowed joining in GGSSS, K-Block(1309260) w.e.f. 1st July, 2019 and also due to her presence in the Hon'ble Court w.e.f. 24.07.2019 to 15.01.2020, working days for the said period be counted and salary be given.

2. Relevant facts emerging during the hearing

2.1 Mrs. Bela Jain, HOS/V.P, Govt. Girls Sr.Sec.School, K-Block, Jahangir Puri, Delhi filed an action taken report. It is stated in the report that

“1. The complainant(Mrs.Jyoti Leekha) was relieved by the school as per Directorate Rules – Circular dated 02.07.2019 issued by E.V. Branch in which they asked to follow the rule “Last in First Out”. Her date of joining in the School was 16.01.2015 and other TGT N.Sci. teachers joined upto Dec.2014. In the PFC 2019-2020 post allocated for TGT N.Sci. was reduced from 14 to 13. So one Guest-teacher had to be relieved and by following the circular dated 02.07.2019, she was relieved by following the rule LAST IN FIRST OUT.

2. Meanwhile, she was posted in G.B.S.S.S. , K-Block, Jahangir Puri (in the same premises – evening session) and filed the case.

According to Court order:-

“The respondents are also directed that they shall review the position for 2020-21 and if there is need for guest teachers in the morning session of the GGSSS K-Block, Jahangirpuri School, her claim for the same, with date of joining as 18.09.2013, shall be kept in view.”

But according to PFC there is no vacant TGT N.Sci. Post till date. So without Directorate's order, HOS has no power to allow join anyone.

3. She claimed that her joining was considered w.e.f. 01.07.2019 and count the number of days from 24.07.2019 to 15.01.2020 along with salary.

Since she is not working in our school during this period and at that time, she was posted in G.B.S.S.S. K-Block, Jahangirpuri, so the H.O.S. of Girls School has no power to give her honorarium during that period. There is no provision to provide any benefit by the DOE to the applicant.

Circulars/guidelines issued by E-V Branch/District as well as Court orders were followed.

Hence, there is no mistake on the part of the school.”

2.2 Copy of the action taken report was also given to the complainant for her information and perusal.

2.3 The complainant stated that she has been teaching in the Education Department since 2010 and teaching in one school since 2012 continuously. The School had a total number of 14 Science Teachers, out of which there were three regular and 11 Guest Teachers. She was the seniormost among them. It was further stated that during the session 2019-2020, due to PFC, a junior teacher was to be relieved and Ms. Rakhi was the juniormost teacher. However, due to wrong decision taken by the Principal of the School, she was relieved. She also furnished relevant documents (Experience Certificate/Salary Bill Number of 2013-14 and 2014-15) to the DDE Zone and concerned officers in support of his contention, however, the same was ignored by them and also no action was taken by Ms.Animo Horo, Dy.Director of Education of the concerned district.

2.4 Though not required, Shri Gurdayal Singh, husband of the complainant, was also heard on request, along with the complainant in the presence of Mrs.Bela Jain, HOS/Vice-Principal Govt.Girls Sr.Sec.School, Jahangir Puri, and was given enough opportunity to make his submissions in the present matter. It was requested by him that the concerned officers of the Education Department should take into consideration the orders of the Hon'ble CAT and take appropriate action.

2.5 After hearing the complainant along with his husband at length, and also submissions made by Mrs.Bela Jain, HOS/VP, Govt. Girls Sr.Sec.School, Jahangirpuri and documents submitted by them, the Commission feels the School Authorities have acted as per rules/circular issued by the Directorate of Education, GNCT of Delhi. Further, as per submissions of the HOS/VP of the school, she was posted in G.B.S.S.S. K-Block Jahangirpuri in the evening session and is still working. It is also contended by the HOS/VP of the school that according to PFC there is no vacant post of TGT N.Sci. till date. Further, with regard to the claim of the complainant to count number of days from 24.07.2019 to 15.01.2020 along with salary, it has been submitted by the HOS/VP of the School that there is no provision to provide any benefit by the DoE to the applicant. Moreover, at that time, the complainant was posted in G.B.S.S.S. K-Block, Jahangirpuri, hence HOS of Girls School has no power to give her honorarium during that period. Further, the Commission feels that

the contractual staff has no enforceable legal right to claim or can be treated on a par with a regularly recruited candidate.

2.6 Further, the Commission also feels relevant to mention judgment dated 10.04.2006 of Hon'ble Supreme Court of India in the case of Appeal (civil) 3595-3612 of 1999 "Secretary, State of Karnataka and others Vs. Umadevi and others that *"No right can be founded on an employment on daily wages to claim that such employee should be treated on a par with a regularly recruited candidate, and made permanent in employment, even assuming that the principle could be invoked for claiming equal wages for equal work. There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service.*

The Hon'ble Court further held that *"..When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post.*

2.7 Further, the Commission notes that the Hon'ble CAT vide its orders dated 15.01.2020 has set aside the directions issued by the respondent department on 01.07.2019. The Hon'ble CAT has directed to treat the date of engagement of the applicant as 18.09.2013 when she had originally joined for the academic session 2013-14 so that she does not unduly suffer the consequences of "Last in First Out" policy issued vide order dated 02.07.2019 and the above arrangement will remain in force for the current session 2019-20. It further directed the respondents to review the position for 2020-21 and if there is need for Guest Teachers in the morning session of the GGSSS, K-Block, Jahangirpuri School, claim of the complainant for the same under the same identity with date of joining as 18.09.2013 shall be kept in view.

3. Directions of the PGC

3.1 Though the respondent department/School Authorities have made their stand clear and also the Hon'ble Supreme Court of India has given its elaborate observations about the legal rights of the contractual staff and it is also a fact that the complainant is still working in the same School, though not in the morning shift but in the evening shift, Director(Education), GNCT of Delhi is advised to take into consideration the directions at Para 14 & 15 of the judgment dated 15.01.2020 of the Hon'ble CAT and take appropriate decision/action accordingly and ensure that no injustice is done to the complainant.

3.2 With the above observations, the case of the complainant stands disposed of in the Commission. The complainant, if so wishes, and is not satisfied, may take legal recourse or approach any other appropriate forum for redressal of her present grievances.

(MRS. MADHU SHARAN)
MEMBER

PGC/2020/A.II/Edn./15

Dated:

1. The Director, Dte. of Education, Govt.of NCT of Delhi, Old Secretariat, Delhi-110054.
2. The Spl.Director / Nodal Officer(PGC), Dte. of Education, Govt.of NCT of Delhi, Old Secretariat, Delhi-110054.
3. Dy.Director of Education(HQ), Dte. of Education, Govt.of NCT of Delhi, Old Secretariat, Delhi-110054 to pursue the matter with the concerned Dy.Director of Education for appropriate action.
4. HOS/Vice-Principal, Govt. Girls Sr.Sec.School (ID No.1309260), K-Block, Jahangirpuri, Delhi-110033.
5. Mrs. Jyoti Leekha.