

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A No. 1855/2012

IN THE MATTER OF:

T.M.K.Rayudu ..Applicant

Vs

N.V.S & ors ...Respondent

REJOINDER-AFFIDAVIT ON BEHALF OF THE PETITIONER

I, T.M.K Rayudu, s/o Sh. Chandraiah, working as TGT (Social Science) in J.N.V Mamnoor, Warangal, Andhra Pradesh, r/o J.N.V. Mamnoor Warangal, Andhra Pradesh do hereby solemnly affirm and declare as under:

1. That I have gone through the counter-reply of the respondents and understood them fully. I deny being wrong all the averments in the counter-affidavit which are contrary to the pleadings.
2. That it is clarified that the Applicant has prayed for quashing of notification dt.18/22-3-2011 only to the extent of the same being not extended to the teaching staff.
3. That vide the office order dt. 18/22-3-2011 the respondents have extended the Modified and Assured Career Progression Scheme (MACPS) to the non-teaching staff. So far as the teachers are concerned the respondents give them senior scale and selection scale on completion of 12 & 24 yrs of service respectively subject to screening regarding their satisfactory performance by an appropriate DPC. Not only this, as per letter dt.6-11-2000 issued by the respondents the number of post in the selection scale for teachers will be restricted to 20% of the number of posts in the selection scales in the respective cadre.

The MACP on the other hand envisages three financial upgradation counted from the direct entry grade on completion of 10, 20 & 30 yrs of service respectively. The financial upgradation under the scheme is admissible whenever a person has spent 10 yrs continuously in the same grade pay. Those who are admitted to the MACP Scheme are not only entitled to upgradation of grade pay but also one increment which consists of 3% of the basic pay. Thus, the senior and selection scale scheme applicable to the teaching staff does not match with the benefits under the MACP Scheme. The respondents, therefore, cannot afford to discriminate between employees in the same organization.

4. That from the above it is clear that whereas under the MACP Scheme upgradation of Grade Pay is a must on completion of 10, 20 & 30 yrs of service the senior and selection scales given to the teachers are not only subject to the promotion norms but also they are not universally applicable. As stated above, the selection scale is restricted to 20 % of the total strength of a cadre. This shows that so far as the teachers are concerned, they have to suffer stagnation to avoid which the MACP Scheme has been introduced by the Central Govt. to ameliorate the Pathetic Condition of employees where promotional avenues are not available.
5. That as per the MACP Scheme, the Central Govt. employees were directly admitted to it. The autonomous bodies like the respondents were left to take decision in this regard. The respondents having consciously decided to implement the Scheme in favour of the non-teaching staff cannot deny the same to the teaching staff for no justifiable reasons. Grant

of senior and selection scales as stated above on completion 12 and 24 yrs of service to the teaching staff can't be a substitute for the MACP Scheme. Even the Govt. of Delhi before the introduction of the ACP Scheme teachers were given senior and selection scales but after the introduction of the Scheme they were also brought within its ambit. Now the ACP Scheme has been replaced by the MACP Scheme.

6. The JNVS was established as an autonomous body under the Administrative Control of the Department of secondary and Higher Education, Ministry of Human Resource Development. The Navodaya Vidyalaya Schools are fully residential & co-educational institutions. The teachers serve at far flung places where the facilities for even the primary education of their children are not available. The Govt. of India has approved the extension of the pay structure of the Central Govt. Employees to the employees of the JNVS. The respondents, therefore, have no justification in not allowing the benefits of the MACP Scheme to the teachers, while the same have been extended to the non-teaching staff.

7. That it is not the case of the respondents that they have not implemented the MACP Scheme. They have implemented the scheme but only in favour of the non-teaching staff.

The denial of the same to the teaching staff therefore needs to be tested on the touch stone of the articles 14, 16 & 21 of the Constitution of India. The classification of employees for the purpose of the MACP Scheme by the respondents has no rational nexus with the object sought to be achieved. In fact, it makes the service conditions of the teaching staff

deplorable. Plainly speaking, it is a case of invidious discrimination.

8. That the O.A therefore, deserves to be allowed in terms of the prayer in the O.A.
9. That I have read & understood the contents of the above affidavit and the same are true and correct.

Deponent

Verification:

Verified at Mamnoor, Warangal, Andhra Pradesh that the contents of the rejoinder contained in paras 1 to 8 based upon my personal knowledge, legal advice and documents are true and correct and no part of it is false.

Deponent

T.M.K.RAYUDU