

CASE NO.:  
Appeal (civil) 2824 of 1984

PETITIONER:  
K.C. GUPTA AND 117 ORS.

RESPONDENT:  
LT. GOVERNOR OF DELHI AND 43 ORS.

DATE OF JUDGMENT: 16/08/1994

BENCH:  
S.C. AGRAWAL & FAIZAN UPDIN

JUDGMENT:  
JUDGMENT

WITH

K.C. LAKHANPAL AND 10 ORS.  
Vs.  
DELHI ADMINISTRATION AND 4 ORS.

WITH

Civil Appeal No. 2825 of 1984.

1994 SUPPL. (2) SCR 637

The Judgment Of the Court was delivered by

FAIZAN UDDIN, J. I. Both the appeals are being disposed of by a common judgment as they arise out of the same judgment passed by the Delhi High Court in LPA No. 204/81 decided on May 27, 1983 alongwith Writ Petition No. 503/74 and (c) Writ Petition No. 1450/81. In both the appeals the question raised is with regard to the seniority and promotion of various categories of teachers presently serving in the Delhi Administration but some of whom were previously employed as teachers in Middle and Higher Secondary Schools which were being run by the Municipal Corporation of Delhi.

2. A brief resume of the facts giving rise to these two appeals may be stated thus:-

Prior to July 1, 1970 Post Graduate Teachers (in short PGT) in the pay scale of Rs. 275-550 and Trained Graduate Teachers (in short TGT) in the pay scale of Rs. 190-425 were employed in the Higher Secondary Schools run by the Government. Besides, these Government Higher Secondary School Municipal of Delhi also used to run several Middle and Higher Secondary Schools with the categories of teachers as follows :-

I.	TGT (Middle)	Rs. 175 - 350
II.	TGT ( Higher Secondary)	Rs. 190 - 425
III.	Headmasters of Middle School	Rs 220 -470
IV.	PGT	Rs. 275-550

3. Since the Municipal Corporation of Delhi was not inclined to continue to run the schools, Delhi Administration came forward with a proposal to take over the Middle and Higher Secondary Schools run by the Corporation on the terms and conditions mentioned in the letter dated April 20, 1970 sent by the Additional Secretary, Delhi Administration to the Commissioner,

Delhi Municipal Corporation stating that the acceptance of the terms and conditions by the Municipal Corporation and that of the staff to be absorbed by the Delhi Administration be communicated to the Delhi Administration so that the transfer of the schools run by the Municipal Corporation may take place with effect from May 1, 1970. Consequently, in response to the said letter of the Additional Secretary, Delhi Administration, the Municipal Corporation, Delhi passed a resolution on May 12, 1970 to close down the Higher Secondary and Middle Schools run by the Corporation on transfer of the staff employed in the said schools to the Delhi Administration with effect from May 1, 1970 accepting the terms and conditions embodied in the letter of the Delhi Administration dated April 20, 1970 referred to above. All the employees of the Corporation who were to be absorbed by Delhi Administration also accepted the terms and conditions of the service for absorption. For some reasons take over of the Municipal schools could not be effected on May 1, 1970 as per resolution of the Municipal Corporation and the schools could be taken over only on July 1, 1970. The Lt. Governor, Delhi with the prior sanction of the President of India issued a notification dated May 27, 1970 for general information that the decision has been taken to take over the Middle (classes VI and VIII) and Higher Secondary (Classes VI and XI) Schools from the Municipal Corporation, Delhi with effect from July 1, 1970. In pursuance of the resolution of the Municipal Corporation and the notification of the Lt. Governor the services of all the teachers serving in the schools run by the Municipal Corporation were transferred to Delhi Administration on the terms and condition contained in the letter dated April 20, 1970.

4. According to the terms and conditions on which the Corporation schools were taken over, all the employees of the said schools which were taken over from the Municipal Corporation were to be absorbed in the services of Delhi Administration to be placed in a separate cadre and designated as 'Special Cadre' and regarded as diminishing cadre. According to the said terms the employees of the Education Department, Delhi Administration were designated as 'Administration Cadre- probably with a view to identify the employees of the two sources under the Delhi Administration.

5. The terms and conditions of the take over and agreed upon between the Municipal Corporation and the Delhi Administration which are relevant for the purposes of decision of these appeals relating to seniority and promotions read as follows : \007

#### 4. "NUMBER OF POSTS IN THE SPECIAL CADRE

The Special Cadre for the absorbed employees from the Delhi Municipal Corporation shall be a diminishing one. The number of posts in various categories of the Special Cadre shall be regulated in the following manner:

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(a) The required number of posts will be created for the employees from the Delhi Municipal Corporation to be absorbed by the Delhi Administration ,

(b) Any additional post subsequently created for any school or class so taken over from the Delhi Municipal Corporation shall be borne on the Administration cadre in its appropriate category and shall not constitute a part of the Special Cadre.

(c) Any post in the Special Cadre falling vacant in any school or class taken over from the Delhi Municipal Corporation, as a result of normal incidence of promotion, retirement, death, dismissal or any other cause, may either be abolished or filled up from the Special Cadre or Delhi Administration Cadre, as per rules of promotion.

(d) A member of the Special Cadre when appointed to a higher post either by promotion or by direct recruitment shall cease to be borne on the Special Cadre, and shall become a member of the administration Cadre, his seniority in the Administration being determined according to the normal

rules on the matter.

#### 5. SENIORITY:

The seniority of any employee in the Special Cadre, as fixed in the Delhi Municipal Corporation before his absorption in the Delhi Administration, will not be disturbed. Where a seniority list is not in existence, such a list will be drawn up on accordance with the rules for the determination of seniority in force in the Delhi Municipal Corporation immediately before the absorption.

#### 11. PROMOTION

1. ....

2. ....

#### (3) PROMOTION TO THE POST OF VICE-PRINCIPAL (350-650)/ PRINCIPAL (425-900).

The promotion quota for the promotion to the post of Vice-Principal (350-650)/Principal (425-900) from the post PGTs will be fixed separately for the Special Cadre and the Administration Cadre, in proportion to the number of PGTs in the respective cadres as calculated on the last day of the last academic session.

#### (4) PROMOTION TO THE POST OF PGTs (275-550):

The promotion quota for the promotion to the post of PGTs (275-550) from the posts of Headmasters (220-470); TGTs/Language Teachers (190-425) will be fixed separately for the Head-masters in the Special Cadre, and the TGTs/Language Teachers (190-425) in the Administration Cadre, in proportion to the respective number as calculated on the last date of the last academic session.

#### (7) PROMOTION TO THE POST OF TGTs, LANGUAGE TEACHERS (190-425):

Senior most TGTs will be considered for promotion to the post of TGT (190-425) in the promotion to the post of TGT (190-425) in the Higher Secondary Schools to the extent of 40% of vacant/new posts of TGTs in the scale of Rs. 190-425. The rest of the TGT posts (190-425) will continue to be filled by direct recruitment and promotion as hitherto."

6. On the last day of the academic session of the year of take over i.e. 30.4.1970 the strength of the relevant category of teachers in the Special Cadre and the Administration Cadre was as under :

Category		Admn.
Special Cadre		
A. TGTs (Trained Graduate Teachers) Schools	4209	181 Higher Secondary
Scale Rs. 190-425		
B. PGTs (Post Graduate Teachers)	2126	98
Scale Rs. 275-550		
C. TGTs - Middle Schools	Nil	2641
Scale Rs, 175-350		
D. Head Masters Middle Schools	Nil	413
Scale Rs. 220 - 470		
E. School Inspectors	Nil	35

The ratio of the aforesaid two categories for the purposes of promotion

worked out on the aforesaid figures would be as under :

(a) TGTs Admn. Cadre	TGTs Spl.
21	1
(b) PGTs in Admn. Cadre	PGTs in Spl. Cadre
23	1

7. Some of the teachers belonging to the Delhi Administration Cadre challenged the take over of the Municipal Corporation schools, the terms and conditions for taking over contained in the letter dated 20A70 as well as the quota fixed between the administration Cadre and Special Cadre, in Civil Writ Petition No. 1010 of 1971 which was dismissed by a Division Bench of the Delhi High Court by Judgment dated 30.7.1973, expressing the view that there was no infirmity in the principle on which the take over of the schools was effected.

8. Thereafter the President revised the pay scales of the Principals, Vice-Principals, Post graduate Teachers and Trained Graduate Teachers, etc. of the Higher Secondary schools vide order dated 18.9.1970 of the Assistant Secretary to the Government of India, Ministry of Education, New Delhi. These revised pay scales were brought in force with retrospective effect from 27.5.1970. According to this revision of pay scales the TGTs (Middle) whose scale of pay was 175 - 350 and the TGTs (Higher Secondary) whose pay scale was 190-425 both were merged together in One cadre and were given unified revised pay scale of Rs. 220-500. The existing pay-scales of the Headmasters of the Middle Schools was Rs. 220-470 which was revised to Rs. 300-600 and the PGTs whose existing pay scale was Rs. 275-550 was also revised to Rs. 300-600. On the basis of the aforesaid revision of pay scales of the TGTs (Middle) and TGTs (Higher Secondary) as both were placed in one unified scale a change of proportion of ratio/quota between the Administration Cadre and Special Cadre, was worked out by the Delhi Administration.

9. Before the schools were taken over and the same were being run the Municipal Corporation the next promotion for the TGT (Middle was to the post of TGT (Higher Secondary) for the reason that the former were in a lower pay scale. By reason of the order dated 18.9.1970 which was issued after the take over but made effective retrospectively from 27.5.1970 the TGT (Middle) and the TGT (Higher Secondary) both were placed in a unified common scale of pay of Rs. 220-500 and, therefore, there was no question of promotion of TGT (Middle) to the post of TGT (Higher Secondary) as the scale of both became one. Similarly before the take over the Headmasters of the Middle schools who were in the lower grade used to be promoted as PGT who were in the higher grade. But due to the order dated 18.9.1970 which was brought into force with effect from 27.5.1970 the pay scales of Headmasters and PGTs both were also made the same. But since there was no cadre of Head Masters in the Delhi Administration and they were absorbed in Delhi Administration, their designation and salaries in the corporation service were protected, till the time that cadre exhausted vide condition No. 9-B (ii) of the Takeover rules.

10. After the revision of the pay scales as aforesaid and consequent unification of various categories of teachers, the Chief Secretary, Delhi Administration under the authority of Lt, Governor took administrative decision on 22,10.1970 in regard to the seniority and promotions of various categories in Administration Cadre and the Special Cadre. Having regard to the previous history of various categories and their pay scale and both of them having been placed in the same grade by order dated 18.9.1970, the Chief Secretary took the decision that the PGT will rank senior to the Headmaster and similarly, both the categories of TGTs from Municipal Corporation, Delhi (Middle and Higher Secondary Teachers) will be placed in the same panel but the TGTs of Higher Secondary School will rank senior to

the TUT of the Middle schools. Keeping in view the strength of each Cadre the Chief Secretary worked out the ratio of ] : 4 for promotion to the higher post from amongst the PGTs - Headmasters of Special Cadre and PGTs of Administration Cadre. As regards the future promotion from amongst the TGT Administration Cadre and TGT Special Cadre the Chief Secretary fixed the promotion ratio as 2 : 3 on the basis of perspective strength of each as it existed on the date of take over. The Chief Secretary also took the decision that the Head Masters of Middle Schools of corporations have become surplus and therefore those who possess qualification of MA. will be promoted to the post of PGT and those who do not held M. A. degree they will work as TGT but they will be entitled to the revised scale of Rs. 300 .-.600

11. It appears that after the revision of pay scales by order dated 18.9.1970 and the aforesaid decision of the Chief Secretary, the administration authorities have second thought to the decision of the Chief Secretary dated 22.10.1970 referred to above fixing the promotion quota/ratio. Consequently on June 30, 1974 the Administration issued a circular introducing separate quota for PGTs and headmasters in the Special Cadre for promotion to the post of Vice-Principal/Principal. Whereby the ratio of 1:4 between PGTs Special Cadre and Administration Cadre of fixed by the Chief Secretary, was also disturbed by including PGTs working on ad hoc basis in the list of Administration Cadre. But by a subsequent Circular issued on December 24, 1974 the special quota to the Headmasters was withdrawn. Till the end of December, 1974 no quota was fixed in the Common Panel of PGTs and Headmasters of the Special Cadre. Some of the members of the Special Cadre filed Civil Writ Petition No. 151/76 -Des Raj & Ors, v. Delhi Administration & Ors., for the implementation of the decision of Chief Secretary, Delhi Administration dated 22.10.1970, challenging the circular dated 13.6.1974 whereby the ratio was disturbed and separate quota was fixed for the Headmasters. But the said petition was withdrawn on 19.5.1977 on the assurance given by the counsel appearing for the Delhi Administration that grievances of the petitioners of that petition would be considered within two months.

12. But instead of considering the grievances within two months accordance with the assurance, the Delhi Administration issued another circular laying down equation of posts and promotion ratio for the year 1974-75 and 1975-76, fixing the strength of Administration Cadre and Special Cadre on year to .year basis and a new ratio was fixed for each year separately. A copy of the said circular is annexed as: Annexure 7 in Civil' Appeal No. 2825/84. Not only this but by another circular dated May 26, 1976 the special quota for the Headmaster and the strength of the cadre-Administration and Specials was again fixed on year to year basis with a new ratio each year separately. Thereafter, on September 7, 1976.fourteen PGTs were promoted on ad hoc from the Administration Cadre and again seventeen PGTs from Administration Cadre were promoted to the post of said Principal from Administration Cadre on the basis of said circular dated May 26, 1976. Being aggrieved by the aforesaid appointments and circulars laying down equation of posts and promotion ratio for the years 1974-75 and 1975-76 fixing the strength of each cadre. Administration and Special on year to year basis on a new ratio and promotion of PGTs from the Administration Cadre as Vice- Principals and Principals, the appellants who were working as PGTs in the Higher Secondary Schools before take over filed the Civil Writ Petition No, 1206/76.in the Delhi High Court which was disposed of by the learned Single Judge by Judgment dated 16:12.80. While allowing the writ petition the learned Single Judge took the view that the decision taken: by the Chief Secretary on 22.10.1970 was rational and reasonable, and the Administration was not empowered to make a change in the said decision. The learned Single Judge, therefore, held as under:

(1) That the Delhi Administration has no authority in law to lay down the rules or administrative instructions in regard to the first promotion less favourable to PGTs of the Corporation service.

(2) In combined panel/cadre for PGTs and Headmasters the PGTs rank en-block senior to the Headmasters.

(3) Till the time original cadre of PGTs (in the Corporation service) is exhausted, no Headmaster can be considered for promotion to the post of Vice Principal/Principal.

(4) The ratio for promotion to the Special Cadre (PGTs and Head-masters together) and the PGTs in administration Cadre is 1 : 4. Appointment to the post Vice-Principal/principal made on 7.9.1976 should have been made only be the basis of the said ratio of 1 : 4.

13. On these findings the learned Single Judge quashed the order of the Joint Director of Education (Administration) dated 26.5.76 and directed the Delhi Administration to review and reconsider the promotions made on 7-9-1976 by two orders. in the light of the principles stated above within two months from the date of the said decision after giving hearing to the petitioners and the teachers promoted by the two orders.

14. As said earlier due to the region of pay scales by order dated .18.9.70 brought into force retrospectively with effect from 27.5.70 the TGTs (Middle) were merged with the grade of TGT (Higher Secondary) and one unified scale for both was made as a result of which the ratio between Administration Cadre and Special Cadre which was originally worked out as 21:1 came down to 3:2 due to the increase in the number of TGTs of a Special Cadre by merger of TGTs (Middle) in TGT (Higher) for the purpose of common scale of Rs. 220-500. The TGTs Administration Cadre felt that this change of ratio adversely effected their future prospects of promotion to higher post and, therefore, they filed 'Civil Writ Petition No. 503/74 in Delhi High Court. The members of the Administration Cadre also filed Civil Writ Petition No. 1405/81 K.C. Vashist v. Lt. governor, in Delhi High Court, claiming that the Headmasters belonging to the Special Cadre be included in the Administration Cadre,

15. The judgment and order of the learned Single Judge dated 16.12.80 passed in Civil Writ Petition No. 1206/76 was also challenged in LPA No. 204/81 in the Delhi High Court. Civil Writ Petition No. 503/74 and Civil Writ Petition No. 1450/81 as well as LPA No. 204/81 were dubbed together, heard and disposed of by a common judgment dated 27.5. 83 by the Division Bench of the Delhi High Court. The Division Bench held that the TGTs of the Middle school who looked forward for promotion to TGTs of the Higher Schools by simple merger of the pay scales can not be permitted to seek fixation of seniority on the basis of length of service in the lower grade and that TGTs of Middle Schools en-block be treated as junior to TGTs higher of the Special Cadre as length of service of TGTs (middle) had to be counted from the date of merger of the pay scales i.e. with effect from 27.5.70 as prior to that date they were altogether in lower grade and could not get themselves equated with the TGTs Higher. The Division Bench also held that since the Headmaster of the Municipal Corporation Schools were on a lower pay scale and looked forward for promotion to the post of PGTs and, therefore, the Headmasters could not claim seniority merely on the basis of length of service when they worked as Headmasters and their service as equivalent to PGTs should be treated as such only froth the day the two scales became equal i.e. with effect from 27.5.70, With regards to a TGTs who were in the High Court grade in the Municipal Corporation and the TGTs in the Administration Cadre; the Division Bench look the view that certain proportion has to be worked out every year and the proportion should not be freezed as held by the learned Single Judge in Civil Writ Petition No. 1206/76 on the reasoning that the TGTs (Higher Secondary) who were in the said cadre in April, 1970 and were actually drawing that pay scale will continue to have the benefit of their proportionate quota for promotion as decided in the take over rules and thus the benefit of this proportionate promotion will be available to only those TGTs who were in the scale of TGTs higher grade in April, 1970. On overall consideration of the facts and circumstances of the case Division Bench ultimately recorded its

conclusions as under :

(1) That the proportion that must be worked out between the TGTs (Higher Grade) of the Administration Cadre and the Special Cadre will be worked out on the respective strength as it existed on 30.4.70. In this principle all Special Cadre TGTs (Middle) whose grades were revised with effect from 27.5.70 will be included. The proportion, of course, will be worked out every year and not frozen as in April, 1970, because otherwise not to take stock of the existing situation but to freeze, it will work great hardship and also give lopsided advantage.

(2) The Headmasters belonging to the Special Cadre will be treated and continue to belong to the Special Cadre. The claim of the Administration Cadre in this regard is rejected. In the Special Cadre promotions to the Post of Vice-principal/Principals have to be made both from Head masters as well as PGTs. For this purpose, however, the promotion will be given in accordance with the respective strength of Headmasters and the PGTs Cadre separately. The Headmaster should not be placed for the purposes of promotion en-block junior to the PGTs of the Special Cadre as held by the Learned Single Judge.

(3) The date for calculating the respective strength will be done at the end of each academic session which means - April of every year and not frozen as was in April, 1970, as has been done by the learned Single Judge.

16. Being aggrieved by the aforesaid decision of the Division Bench dated 27.5.83 the TGT (Middle) and the TGTs (Higher Secondary Schools) belonging to the Special Cadre have filed Civil Appeal No. 2824/84 which arises out of C.W. No. 503 of 1974 and the PGTs working in the Higher Secondary Schools, Delhi Administration but who were previously working as PGTs in Higher Secondary Schools, Municipal Corporation, Delhi before 1.7.70 have also filed Civil Appeal No. 2825/84 against the same judgment of the Division Bench dated 27.5.83. This is how these two appeals have been preferred against the same judgment passed in LPA by the Division Bench of the Delhi High Court.

17. Learned counsel appearing for the appellants in Civil Appeal No. 2824/84 filed jointly by TGTs Middle and Higher Secondary whose scales were merged and unified with effect from 27.5.70, assailed the findings and conclusions recorded by the Division Bench that the TGTs of Middle Schools cannot seek fixation of their seniority on the basis of length of their service in the lower grade and that length of service of the TGTs Middle Schools had to be counted only from the date of merger of the pay scale i.e. with effect from 27.5.70, which is contrary to the rules governing the take over which are only prospective intended to operate from the date of take over i.e. 1.7.70. It was contended that the Division Bench of the High Court committed an error in holding that the TGTs Middle will count their seniority in the TGTs Higher Secondary with effect from 27.5.70 and will be treated en-block junior to TGTs higher of the Special Cadre, ignoring the fact that it was prior to 1.7.70 (the date of take over) that the two grades of TGTs Middle and TGTs Higher were merged and integrated into one and them same grade with effect from 27.5.70 and, therefore, they were entitled to the fixation of their inter se seniority with reference to their date of initial appointment as Trained Graduate Teachers and said seniority was protected under the very terms and conditions of take over. It was further submitted that the rules of take over provide for fixation of strength with effect from the beginning of the next academic session with reference to the position as on the last date of the academic session of the year in which the absorption took place and, therefore, the crucial date was 30.4.71 and not 30.4.70 as held by the High Court. The learned counsel strenuously urged that this position should have been accepted by the Division Bench of the High Court which rendered the judgment in LPA specially when there was no grievance made by any of the Trained Graduate Teachers (Higher Secondary) of the Special Cadre and the TGTs of the Administration Cadre had no locus standi whatsoever to challenge the inter

se seniority of the Special Cadre. It was, therefore, urged that the High Court was wrong in holding that the TGTs Middle will count their seniority as TGTs Higher Secondary only with effect, from 27.5.70. After giving serious consideration to the aforementioned submissions and on perusal of the rules of take over and the impugned judgment of the Division Bench rendered in this LPA we find that there is absolutely no substance in any of the aforesaid submissions made by the learned counsel for the appellants.

18. The claim of the appellants for fixation of their inter se seniority with reference to their initial appointment as TGTs is not supportable on any justifiable basis. It may be noted that prior to the merger and integration of the two scales of the TGTs, the TGTs Middle were in a lower pay scale of Rs. 175-350 while TGT Higher Secondary were in a higher pay scale of Rs. 190-425 and both were revised to the pay scale of 220-500. That apart the TGTs in lower grade were recruited and appointed to teach Middle classes while the TGTs Higher were recruited and appointed to teach higher classes in the High Court Secondary Schools. The incumbents of the lower grade were used to be promoted to the higher grade for the two Cadres were not common as the teaching upto Middle classes and teaching the Higher classes could not be treated to be one and the same function. Thus the posts of TGTs (Middle) and TGTs (Higher) were created separately with distinct cadre and scales for different work in Municipal Schools - Lower Cadre for teaching lower classes and the Higher Cadre for teaching higher classes. The claim of the TGTs Middle of the unification of the two pay scales that their seniority should be counted from the date of their initial appointment on the basis of length of service to the post of TGT is not justified because in that even some of them may even become senior to the members of the Administration Cadre of that category who are or were working as TGT High Court much before the date of unification of the scales. It may also be pointed out that by accepting the seniority of the TGTs Middle on the basis of their length of service there may be occasions when they may get a chance of promotion over their senior in the Administration Cadre who are working as TGTs since much longer a period than the TGT Middle who since much longer a period than the TGT Middle who were in lower grade which was equated with the grade of TGT (higher) only with effect from 27.5.70. This situation would certainly be detrimental to the interest of TGTs on the Administration Cadre and would cause great injustice to them.

19. The contention of the TGTs (Middle) that they should be treated at par with the TGTs (Higher) on the merger of the two grades/pay scales on the principle of seniority in accordance with the length of service is also not supportable from the terms and conditions of the takeover. Term No, 5 reproduced in early part of this judgment and which relates to 'Seniority' militate against the claim advanced by the appellants and clearly demolishes the contention. It contemplates that "the seniority of any employee in the Special Cadre, as fixed in Delhi Municipal Corporation before his absorption in Delhi Administration, will not be disturbed and where a seniority list is not in existence, such list will be drawn up in accordance with the rule for the determination of seniority in force in the Delhi Municipal Corporation immediately before the absorption." This term certainly cannot be interpreted to mean that an employee belonging to a lower grade/scale of pay when merged to a higher grade/scale of pay to which he originally did not belong, he would be entitled to claim seniority or a status at par with the employee of the higher grade on the basis of length of his service when he was not at all in that grade. Ordinarily inter-se seniority amongst members of grade has to be fixed in accordance with continuous length of their service in that grade. But in the instant case as pointed out repeatedly there were two grades of TGTs in the Municipal service-One lower, another higher. In the present case before us the TGTs (Middle) were merged with the TGTs (Higher) and the two pay scales were amalgamated and unified into one single grade by order dated 18th September, 1970 which was made effective retrospectively from 27-5-1970 and, therefore, the date of integration of the two cadres in the Delhi

Administration services (27-5-1970) is the crucial date for determining the seniority. That being so, the seniority of the TGTs (Middle) must be reckoned only from the date when they were brought at par with the higher grade of TGTs and they cannot be permitted to supersede the existing rights of their counterparts. In view of these facts and circumstances the Chief Secretary, Delhi Administration was fully justified in taking the decision dated 20th October, 1970 that both the categories of TGTs drawn from Municipal Corporation Delhi will be placed in the same panel, but TGTs Of Higher Secondary School will senior to the TGTs of Middle Schools. The Division Bench was, therefore, fully-justified in holding that TGTs Higher Secondary will count their seniority in the TGTs Higher Secondary only with effect from 27.5.70 and they shall be treated en-block junior to the TGTs higher of the Special Cadre.

20. The argument that since the Trained Graduate Teachers Higher Secondary had not grievance to the fixation of inter se seniority between TGTs Middle and TGTs High with reference to their date of initial appointment as Trained Graduate Teachers and, therefore, the TGTs of Administration Cadre had no locus standi to challenged the inter se seniority of the Special Cadre is fallacious and without any merit. The TGTs (middle) who were in the lower grade/scale of pay till 27-5-1970 became unreasonably ambitious to be reckoned as equal to the TGTs in higher grade from the date of their initial appointment which within no stretch of any rule or practice can be said to be justified. If the seniority of the TGTs Middle is counted from the date of their initial appointment the combined strength by integration of the two TGTs Middle and TGTs Higher will be enlarged and swell up manifold adversely affecting the TGTs of the Administration Cadre not only in the proportion of ratio but also affecting their promotional avenues to the post of PGTs, Vice-Principals and Principals as by inflation of the strength of the TGTs Special Cadre due to addition of TGTs (Middle) the ratio of TGTs Administration Cadre will go down and decrease to a great extent.

21. Learned Counsel appearing for the appellants in civil Appeal No. 2825/84 strenuously urged that it is evidently clear from the terms and conditions of take over rules that the PGTs from the Special Cadre as well as the Administration Cadre were name source for recruitment and promotion to the post of Vice Principal/Principal and from no other source yet the Division Bench of the High Court in LPA No. 204/81 erroneously held that there would be a quota for two categories of PGTs i.e. PGTs and Headmasters within the Special Cadre on the basis of which promotion to the post of Vice Principle and Principal would be made according to their respective strength which is contrary to the terms and conditions of take over. The learned counsel further submitted that the Division Bench failed to appreciate that the rights accrued to the PGTs at the time of take over could not be taken away by the subsequent events as held by the learned Single Judge in Civil Writ Petition No. 1206/76 in which it has been held that according to the terms and conditions of the absorption the promotion quota of PGTs in the Special Cadre and in the Administration Cadre was to be fixed and the quota and proportion to PGTs in respective cadres has to be calculated as on the last day of the last academic session. As against this the learned counsel appearing for the respondents sought to support the view taken by the Division Bench and urged for the dismissal of the appeal.