

Central Admiinistrative Tribunal
Principal Bench: New Delhi

O.A. No. 157/2001

New Delhi this the 9th day of May, 2001

(7)

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Shri Sunil Kumar Aggarwal
S/o late Shri Triveni Prasad Aggarwal,
R/o Quarter No.16, G.B. Pant Polytechnic
Campus, Okhla, New Delhi-110 020.

-Applicant

(By Advocate: Shri S.K. Gupta)

Versus

1. Lt. Governor,
Govt. of NCT of Delhi.
Raj Niwas,
Delhi.
2. The Principal Secretary,
Directorate of Trainining & Technical Education,
Muni Maya Ram Marg,
Pitampura, Delhi.
3. Secretary,
Union Public Service Commission,
Dhoulpur House, Shahjahan Road,
New Delhi.

-Respondents

(By Advocate: Shri Ram Kanwar)

O R D E R

Shri V.K. Majotra, Member (A)

The applicant is aggrieved by the action of the respondents in not promoting him from 28.6.1991 to the post of Lecturer in Electrical Engineering and consequently not regularising him on that post w.e.f. 22.4.96 as has been done in the case of others like Shri I.P. Badola who acquired qualification for the aforesaid post alongwith the applicant and was accorded promotion w.e.f. 28.6.1991 to the post of Lecturer and consequently regularised w.e.f. 20.3.1996 i.e. the date when Shri I.P. Badola acquired the qualification.

2. The applicant was working as Investigator in the office of respondents w.e.f. 21.12.1987 in the pay scale of Rs.1640-2900 (Annexure A-2). The Government had constituted a Committee under the Chairmanship of Shri

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P.J.Madan (hereinafter called 'Madan Committee') which made recommendations regarding re-structuring of staff in Engineering/Polytechnic Institutions in its report dated 21.10.1978(Annexure A-3). Government of India, Ministry of Human Resources Development accepted the recommendations of the Madan Committee and ordered that the existing staff members who do not have the requisite qualifications for appointment in a particular grade should be given an opportunity to upgrade/improve their qualification within a period of 8 years and they may be sent for training to appropriate institutions under the available Scheme (Annexure A-4). Nine persons including Shri I.P.Badola and the applicant cleared the relevant training on 28.6.91 at T.T.T.I Calcutta (Annexure A-7). However, various categories excepting that of Investigator were given the benefit of upgradation to the post of Lecturer. OA-804/93 filed by Shri Inderjeet Singh and Shri M.L.Salwan was disposed of by order dated 8.1.99 ((Annexure A-8) directing the respondents to take a decision in the matter of upgradation/appointment of Investigators to the post of Lecturers within a period of two months after giving them a personal hearing by passing a detailed and speaking order. The applicants in that OA were promoted to the post of Lecturer on ad hoc basis by order dated 11.6.99 stating that their appointment would be regularised after its approval by UPSC. However, no action was taken by the respondents in that regard. The applicant qualified the training on 28.6.99 and acquired the degree in Engineering within 8 years i.e. on 22.4.96 from 10.11.1988. Applicant's representation dated 18.4.2000(Annexure A-13) has remained undecided although according to the applicant, the Finance Department has recommended his case for grant

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of the scale w.e.f. 28.6.91, the date on which other persons were given the benefit. The applicant has sought modification in Annexure A-1 dated 11.6.99 whereby the applicant has been upgraded from the post of Investigators to the post of Lecturers on ad hoc basis in the pay scale of Rs.8000-275-13500(Revised) with immediate effect to the effect that his promotion should be given effective from 28.6.91 with consequential benefits and also that respondents should be directed to consider regularising the applicant on the post of Lecturer w.e.f. 22.4.96 (the date when he had acquired the Degree).

3. In their counter, the respondents have stated that the applicant's case is not similar to the case of Shri I.P.Badola. Shri Badola was promoted to the post of Lecturer under the Madan Committee recommendations which were applicable to persons holding teaching posts. Shri Badola held the post of Demonstrator which is a teaching post. The applicant as Investigator does not hold a teaching post. Similarly, the case of Shri B.S. Raghav is also different than the case of the applicant as Shri Raghav also held a Teaching post. The respondents have also stated that applicant's case was considered in the light of the directions of this Court made in 1999 in OA-804/93 whereafter in view of applicant's representation, his case was taken up with Ministry of Human Resources Development accepting that his case was covered under the recommendations of the Madan Committee and he was promoted to the post of Lecturer. Since Group-A post requires UPSC's concurrence for regular appointment, the case of applicant has been referred to UPSC for their approval.

4. We have heard the learned counsel of both sides and considered the material on record.

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5. The earlier OA-804/93 seeking application of the recommendations of the Madan Committee and appointment to the upgraded post of Lecturer was decided on 8.1.99 with the following directions to the respondents:-

"If a decision in the matter of upgradation/appointment of Investigators to the posts of Lecturers has already been taken, the same may be conveyed to the applicants within 2 weeks from the date of receipt of a copy of this order. On the other hand, if the respondents have not taken a final decision of the matter, they shall do so within two months from the date of receipt of a copy of this order after giving the applicants a personal hearing and pass a detailed and speaking order in case their claims are rejected for upgradation and appointment as Lecturers. No costs".

6. The learned counsel of the applicant referring to Memo dated 3.10.88 (Annexure A-5) pointed out admission of the respondents that certain categories including that of Investigator had been left out through oversight from the purview of the recommendations of the Madan Committee. Vide Annexure A-6 dated 10.11.1988 the category of Investigator among others was included among the posts whose incumbents were to be considered for appointment as Lecturer. Annexure A-4 dated 25.9.1987 relates to implementation of recommendations of Madan Committee. One of the relevant instruction on the subject is extracted below:-

"The existing staff which will be declared surplus by virtue of the implementation of Madan Committee's Recommendations may be absorbed in the revised structure provided they fulfil the necessary prescribed qualifications in the required post. However, the existing staff members who do not have the requisite qualifications for appointments in a particular grade, should be given an opportunity to upgrade/improve their qualifications within a period of 8 years and they be sent for this purposes to the appropriate institutions under the available Schemes".

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7. The learned counsel of the applicant contended that applicant along with Shri I.P.Badola had undergone the requisite training of 1-1/2 years as per Annexure A-7 dated 12.12.1989. Similarly, he also acquired another necessary eligibility condition relating to qualifications within a period of 8 years by acquiring a degree during 1996. The contention of the learned counsel of the respondents that applicant's post of Investigator does not fall within the purview of a teaching post, has been controverted by the learned counsel of the applicant by drawing our attention to Annexure A-15 dated 16.5.97 and Annexure A-19. Vide Annexure A-15, the Ministry of HRD has stated that the category of Investigator involves a teaching job and can be considered for giving Lecturer's scale. Again, Annexure A-19 is a Schedule of G.B. Pant Polytechnic, Okhla establishing that ~~the applicant as investigator has had~~ ^{that the applicant as investigator has had} teaching assignments. On considering these documents, we go along with the learned counsel of the applicant that the applicant's job of Investigator involved teaching assignment as like Shri Badola. The applicant had also undergone the necessary training as well as acquired the degree qualification as stated above combined with the factum of discharging teaching assignments. The applicant is certainly entitled for upgradation to the post of Lecturer on the basis of the recommendations of the Madan Committee. The respondents have vide Annexure A-1 accorded upgradation as Lecturer to the applicant effective from 11.6.99 and stated to have moved UPSC for his regularisation. The only issue remaining for adjudication is the effective date from where the applicant should be regularised on the post of Lecturer.

8. Having regard to what is stated above and

considering that the applicant's case is identical with that of Shri I.P. Badola, the OA is allowed directing the respondents to consider the case of the applicant for promotion to the post of Lecturer w.e.f. 28.6.1991 when Shri Badola was accorded promotion and regularisation w.e.f. 22.4.96 when he acquired the degree vis-a-vis Shri Badola, who acquired Degree on 20.3.1996 as per rules/instructions on the subject. Applicant's pay in the Lecturer's scale shall be fixed notionally w.e.f. 28.6.91, however, he shall be entitled to arrears of pay and allowances in the post of Lecturer w.e.f. 22.4.1996. No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Member (A)

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