

(11)

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2057/2001

New Delhi this the 12th day of September, 2002

Hon'ble Shri M.P. Singh, Member (A)

Hon'ble Shri Shankar Raju, Member (J)

1. Mahesh Chandra Sharma,
S/o Shri Badri Prasad,
R/o C-2/151, DDA Janta Flats,
Hastal, Uttam Nagar,
New Delhi.

Employed as:

Senior Library and Information Assistant,
In the Ministry of External Affairs,
Government of India, Patiala House,
New Delhi

2. Ramesh P. Singh
S/o Shri Pukha Ram
R/o 80 G, Pocket A-2, Mayur Vihar,
Phase III, Delhi-110 096.

Employed as:

Senior Library and Information Assistant
In the Department of Town & Country Planning Orgn.
Ministry of Urban Development,
'N' Block, I.P. Estate
New Delhi.

... Applicants

(By Advocate: Shri B.B. Raval)

Versus

1. Union of India
Through : The Secretary,
Ministry of Finance
Government Of India, North Block
New Delhi
2. The Secretary,
Department of Culture,
Ministry of Tourism & Culture,
Government of India,
Shastri Bhawan,
New Delhi.
3. The Secretary,
Ministry of External Affairs,
Government of India,
South Block,
New Delhi.
4. The Secretry,
Ministry of Urban Development,
Department of Town & Country Planning Orgn.,
Government of India,
I.P. Estate,
New Delhi.

(2)



5. The Chairman,
Department of Town & Country Planning Orgn.,
Government of India, I.P. Estate,
New Delhi. -Respondents

(By Advocate Shri L.R. Khatana)

O R D E R (ORAL)

Mr. Shanker Raju, Member (J):

Applicants are Senior Library and Information Assistant have on apprehension of elevation of the posts/persons two steps below to the post of Senior Library and Information Assistant displacing the applicants from their respective places as well as stepping up of next higher pay scale in Rs.6500-10500 filed this OA seeking quashing of proposed notification of upgrading the post of Library Information Assistant and equating them with Senior Library and Information Assistant as well as consideration for accord of pay scale of Rs.6500-10500.

2. Shri B.B. Raval, learned counsel appearing for the applicant contended that as the Fifth Central Pay Commission has recommended pay scale of Rs.5000-8000 for Library Information Assistant and pay scale of Rs.5500-9000 to Senior Library and Information Assistant and on being represented by various unions and associations a pay scale of Rs.6500-10500 was recommended. In order to implement the recommendation both the aforesaid posts have to be simultaneously upgraded and given the higher pay scale. According upgradation of pay in the lower post of Library Information Assistant and bringing it at par with the promotional post of Senior Library and Information Assistant is violative of the principles of equality.

(3)

13

Upgradation connotes creation of new post which has been banned and cannot be taken place without the concurrence of the Ministry of Finance.

3. Learned counsel Sh. L.R. Khattana appearing for the respondents denied the contentions and stated that the reliefs claimed by the applicants and the cause of action are based on imagination and illusory grounds which do not constitute a grievance. Moreover, upgradation or equation of posts of different categories of employees is a matter of policy which unless found malafide or violative of the statutory rules cannot be interfered. It is further stated that it is only an apprehension which is misplaced of the applicants that if the pay scale of certain categories of employees is upgraded and equated with that of applicants they would be pushed down from their respective places is false.

4. Sh. Khattana further stated that in view of the Fourth Central Pay Commission's report a Committee was constituted and the Ministry of Finance, Department of Expenditure keeping in view of the recommendations issued OM dated 27.4.90 and moreover recommendations of Expert Body are examined by the Government. Fifth Central Pay Commission in paragraph 55.177 has revised the pay scale to Rs.5500-9000 and Rs.6500-100500 to be extended to the only School Librarians and was not applicable to other Librarians working in various Departments/Ministries of the Central government which are covered by another set of recommendations.

According to Sh. Khattana if the decision has been wrongly implemented this would not confer an indefeasible right on others to claim the same.

5. We have carefully considered the rival contentions of the parties and perused the material on record. Applicants have not denied the contentions of the respondents by filing their rejoinder. Moreover, their grievance of elevation of posts and as a consequence thereof displacing from the respective position is concerned, the same is only a misplaced and unfounded apprehension and the aforesaid action is yet to be taken by the respondents and no order has been passed to this regard. In this view of the matter the grievance of the applicant and the cause of action is founded on imagination and is not real and as such in so far as this relief is concerned, the OA is not maintainable as being pre-mature.

6. In so far as the prayer for accord of pay scale of Rs.6500-10500 is concerned, the same is the prerogative of the Government based on the recommendation of the Expert Body like Fifth Pay Commission. As the Fifth Pay Commission has not recommended the pay scale to Librarians working in various Departments/Ministries of Central Government except in para 55.177 of the report and is extended only to School Librarians and the applicants are covered by another set of recommendation by which they had been accorded pay scale, the same cannot be interfered with without any malafide or violation of Articles 14 and 16 of the Constitution of India. In the matter of parity

(5)

of pay scale in absence of an established case this Court cannot interfere in view of the decision of the Apex Court in P.V. Hariharan v. Union of India & Anr. v. P.V. Hariharan & Anr., 1997 SCC (L&S) 838.

7. In the result, OA is found bereft of merit and is accordingly dismissed. No costs.

(Shanker Raju)
Member (J)

(M.P. Singh)
Member (A)

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