

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.495/99

New Delhi this the 26th day of May, 2000.

16

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN(J)
HON'BLE MRS. SHANTA SHASTRY, MEMBER (ADMNV)

1. Mrs. Indu Gupta
w/o Mr. Anil Gupta
r/o 69, Model Basti
Near Filmistan, Karol Bagh
New Delhi - 110 005.
2. Mrs. Alka Mankad
w/o Mr. Umesh Mankad
Computer Operator
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.
3. Mrs. Sonia Chopra
d/o late Sh. S.K.Chopra
r/o 328, Lodi Road Complex
New Delhi - 110 003.
4. Mrs. Anita Bhatia
w/o Mrs. Kapil Bhatia
r/o Sector-C, Pocket-8
House No.8390, Vasant Kung
New Delhi - 110 067.
5. Prem Lal
s/o Swaran Dass
r/o E-80, Munirka
New Delhi - 110 070.
6. Vinod Kumar
s/o Gurbax Rai
r/o E-10 A
Kiran Garden
Uttam Nagar
New Delhi - 59.
7. Mrs. Seema Jain
w/o Rohit Jain
r/o 303, Kush Agarsen Apts.,
Patparganj
Delhi.
8. Ashok
s/o Shri Hari Singh
Computer Operator
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.
9. B.C.Pant
s/o Shri P.C.Pant
r/o A-570, Sector-19
Noida.

CA

10. Mrs. Sonia Maheshwari
Computer Operator
Department of Biotechnology
Block No.2, C.G.O.Complex
Lodhi Road
New Delhi.

17

11. Mrs. Kusem Chaudhary
Computer Operator
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.

(By Shri M.K.Bhardwaj, through Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The Secretary
Government of India
Ministry of Science & Technology
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.

2. The Director
Government of India
Ministry of Science & Technology
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.

3. Under Secretary
Government of India
Ministry of Science & Technology
Department of Biotechnology
Block No.2, CGO Complex
Lodhi Road, New Delhi.

... Respondents

(By Shri S.Mohd. Arif, Advocate)

O R D E R

By Reddy, J.-

The matter pertains to the fixation of pay scales to the applicants.

2. The applicants were initially appointed in the posts of Computer Operators Grade A in the pay scale of Rs.1350-2200 in the Department of Bio-Technology. The next higher post is Computer Operator Grade B in the pay scale of Rs.1400-2300. The case of the applicants is that in pursuance of the recommendations of the Departmental

CAR

98

Promotion Committee (DPC) the applicants were promoted to the post of Computer Operator Grade B in the grade of Rs.1400-2300 w.e.f. 31.10.93 by order dated 8.7.97. Subsequently by order dated 23.3.98 the respondents re-fixed the pay of the applicants in the grade of revised pay scale of Rs.5000-8000, Subsequently, by order dated 21.4.98 the Director erroneously ordered that the order dated 23.3.98 fixing the pay of the Computer Operators in Grade ~~B~~^{B1} in the scale of Rs.5000-8000 should be treated as cancelled and also directed that the said scale would be effective only from the date of completion of three years from the date of promotion to Grade B. ~~His~~^{Their} pay was refixed in the pay scale of Rs.4500-7000.

3. The learned counsel for the applicant contends that the revision of the pay scale was without notice and is therefore bad in law and is violative of the principles of natural justice. It is further contended that the applicants having not been reverted from Computer Operators Grade B, their pay cannot be reduced, as their promotion was on regular basis on the recommendations of the DPC.

4. It is stated in the counter-affidavit that the posts and pay scale of the Data Entry Operator, Computer Assistant and Computer Analysts were rationalised and re-structured in 1988. The posts of Data Entry Operators in the scale of Rs.950-1500 was re-designated as Computer Operators and the pay was revised to the pay scale of Rs.1350-2200 and Computer Analysts (Rs.1400-2300) was redesignated as Data Processing Assistant (Rs.1600-2660). The post of Computer Assistant was omitted. The recruitment rules in respect of restructured posts were published on

CRS

21.7.90. Out of the 11 applicants, five applicants were given the revised pay scale of Rs.1350-2200 by order dated 19.11.90. The pay scale of Rs.1350-2200 was revised to Rs.4500-7000. As per the recruitment rules after restructuring of the posts the promotion from the post of Computer Operators to the post of Data Processing Assistant, it is necessary that one should have 7 years service in the grade of Computer Operator. Erroneously, however, the DPC which recommended the applicants for promotion on 27.9.96, has not taken into consideration the re-structured posts. Hence, the promotion of the applicants to the posts of Computer Analysts in the scale of Rs.1400-2300 was contrary to the recruitment rules. In fact, it would amount to obtaining ~~the~~ double benefits for the applicants in the pre-revised posts as the applicants who were Data Entry Operators were first to be promoted as Computer Assistants and then as Computer Analysts in the pay scale of Rs.1400-2300. As soon as the above mistake was detected the Department issued its order dated 3.7.98 cancelling its earlier order dated 29.3.98 regarding the refixation of the pay of the applicants in the scale of Rs.5000-8000. The applicants are only entitled to the scale of Rs.4500-7000 in the post of Computer Operator, being the revised scale to the scale of Rs.1350-2200 (PRS), they would be entitled for promotion only after 7 years of service as Computer Operators and not three years of service.

4. We have given careful consideration to the pleadings and the arguments advanced in this case. In this case the facts are not in dispute. But an error ^A had crept in the fixing of the pay scale of the applicants. It is not in dispute that the applicants were initially appointed as Computer Operators in 1990. The post of Data Entry Operator

CAB

-5-

20

after restructuring of the cadre in 1988 was redesignated as Computer Operator in the revised scale of Rs.1350-2200. Admittedly, the applicants when they were working as Computer Operators were promoted to the next higher grade, i.e., Rs.1400-2300 on the recommendations of the DPC by the order dated 8.7.97. The promotion, obviously is erroneous. As per the revised recruitment rules the next promotion to the post of Computer Operator is the the Data Processing Assistant in the scale of Rs.1600-2660. The applicants, therefore, were erroneously considered for the posts of Computer Analysts, the post which was existing prior to the restructuring of the post. If the promotion were to be in the post of Computer Analysts the applicant had bye-passed the first promotion post of Computer Assistant which lies in between the post of Data Entry Operator and Computer Analysts. Their promotion could have been only to the post of Data Processing Assistant in the scale of Rs.1600-2660 after they had rendered service of 7 years in the post of Computer Operator. On the other hand, the applicants were promoted w.e.f. 31.10.93. By that time the applicants had only three years experience as Computer Operators, hence they were not entitled to be promoted as Data Processing Assistants and that the promotion to the post of Computer Analysts which was existing prior to the restructuring of the post is wholly erroneous and was rightly cancelled by the impugned order. The applicants are, therefore, legally entitled only for the revised pay scale of Rs.4500-7000 and not Rs.5000-8000. They would get the above pay scale only w.e.f. 8.7.97 after they are promoted to the posts of Data Processing Assistants in the scale of Rs.1600-2660, the pre-revised scale, after 7 years of service.

CRB

6. This is not a case where notice should have been issued to the applicants before the error was corrected. The time gap between the erroneous order passed and the impugned order was only three months and few days, as by order dated 3.7.98 the earlier error order dated 23.3.98 was cancelled and the pay scale was correctly fixed.

(2)

7. In the circumstances, we do not find any justification in seeking to be heard before the impugned order was passed.

8. The OA, therefore, fails and is dismissed.

No costs.

Shanta Shastri

(Smt. Shanta Shastri)
Member (Admnv)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman (J)

'San'