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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.401/98

New Delhi, this the 6th day of September, 2000

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Sh. Baljit Singh Rana, S/O Late Sh.
Mange Ram, R/O Village Bijawasna, New
Delhi.

Working as Library Information Asstt.
(P/A No.28966), HQ, Western Air Command,
Air Force, Subrato Park, New Delhi.

.....Applicant
(By Advocate: Sh. N.S.Dalal)

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi.
2. Director of Personnel (Civilian), Air Hq., Vayu Bhavan, New Delhi.
3. Officer Commanding, HQ, Western Air Command (U), Air Force, Subrato Park, New Delhi-10.

.....Respondents.
(By Advocate: Sh. N.S.Mehta)

ORDER

Hon'ble Mr. S.A.T.Rizvi, Member (A):

The applicant presently working as Library Information Assistant (for short LIA) in the scale of Rs.1400-2600/-, has filed this OA seeking the following set of reliefs:-

i) The orders of respondents dated 4.11.97 and 19.1.98 be quashed,

ii) direction to the respondents to pay arrears of pay to him in the pay scale of Rs.1400-2600/- up to 20.8.96; and

iii) direction to the respondents to promote him as Sr.LIA in the pay scale of Rs.1640-2900/- from August,96.

2. The facts of the case which requires some elaboration are as follows:-

3. The applicant had been working as Librarian in the respondents' establishment in the pay scale of Rs.1350-2200/- when, following the report of the Review Committee on Library staff working under the Central Govt., detailed instructions for restructuring/integration of the pay scales were issued by the Ministry of Finance (Dept. of Expenditure) on 24.7.90. These instructions were subsequently implemented by the respondents vide Air Headquarters, New Delhi letter dated 4.3.91 (Annexure-C) exactly in accordance with the terms and conditions laid down in the M/O Finance's OM dated 24.7.90. The applicant did not, at that time, possess the degree of Bachelor in Library Science and could not, therefore, be placed in the restructured/integrated pay scale of Rs.1400-2600/- intended to be given to officials like him working in a given set of several grades of pay. Initially a time limit of three months was allowed for the various personnel working on the Library side to opt for the above-mentioned restructured/integrated pay scale of Rs.1400-2600/-. Subsequently, the said time limit was extended vide Air Headquarters, New Delhi letter dated 22.3.93 (Annexure R-8), permitting the Library staff to exercise their option within two months from 19.3.99 and this was allowed as a special case. Admittedly, the

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applicant could not acquire the degree of Bachelor in Library Science even within this extended period. In accordance with the Scheme, therefore, he continued in the old pay scale of Rs.1350-2200/- and continued to be designated as "Librarian" and not as "LIA". The applicant acquired the degree in question in the year 1995 and soon thereafter petitioned to the respondents for his adjustment in the restructured/integrated pay scale of Rs.1400-2600/-. The respondents took some time to consider his petition and finally placed him in the said scale of Rs.1400-2600/- w.e.f. 21.8.96 vide Air Headquarters, New Delhi letter of the same date (Annexure R-1). In this letter, it has been mentioned that the applicant working as a Librarian, has been promoted to the grade of LIA w.e.f. 21.8.96. The applicant's grievance is that his placement in the restructured/integrated pay scale of Rs.1400-2600/- has been wrongly termed as "promotion". His additional grievance is that while he should actually have been promoted to the post of Sr.LIA in the pay scale of Rs.1640-2900/- after he acquired the degree of Bachelor of Library Science, the respondents have refused to oblige. The respondents have denied the claim of the applicant amongst others on the main ground that he could not have been placed in the scale of Rs.1400-2600/- earlier than he was actually so placed. The reason given is that the applicant received the degree of Bachelor of Library Science in 1995 and thereafter some time was spent in considering the matter and the final order placing him in the scale of Rs.1400-2600/- could be issued only on 21.8.96. The respondents have termed the placement of the applicant in the said scale of

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Rs.1400-2600/- as "promotion" and have even referred to the DPC's decision placing him in that grade.

4. We have heard the learned counsel for both the parties and have perused the material on record.

5. A careful look at the report of the Review Committee, referred to, reveals that this was simply a case of re-designation of a Librarian as LIA subject to his possessing the prescribed qualifications. The qualification prescribed was that of a Graduate Degree in Library Science, which the applicant admittedly did not possess at the relevant time and remained without it for much longer and finally acquired it in 1995. According to the said Report, a Librarian then working in the scale of Rs.1350-2200/- who did not possess the aforesaid degree and consequently did not opt for the scale of Rs.1400-2600/- within the time limit laid down for the purpose, was destined to remain in the old scale of Rs.1350-2200/- and his designation too was to remain the same. The Report contemplated phasing out of such incumbents with new recruits coming in in due course in terms of the Recruitment Rules prescribing new qualifications. It has not been provided in the Report that a Librarian who failed to make it within the prescribed period could be considered after the cut-off date already referred to, for placement in the scale of Rs.1400-2600/- by way of upgradation or by way of promotion. As a matter of fact, no clear provision has been made for such persons working in the library establishment of the respondents. However, the

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respondents decided finally in favour of the applicant and placed him in the scale of Rs. 1400-2600/- after he fulfilled the prescribed qualification of a Bachelor's Degree in Library Science. It is a mystery to us as to why the respondents have chosen to term the said act of their's as promotion. The respondents' reference to some DPC having decided to place the applicant in the scale of Rs.1400-2600/- is not properly reflected in the respondent's letter dated 21.8.96 which merely says that "the following Librarians are promoted to the grade of LIA with immediate effect", and the name of the applicant figures therein. In our attempt to decipher the mystery, we have, on our own, looked at this state of affairs in a slightly different way and it is like this. As already stated, it is clearly laid down in the Review Committee's report that those not opting for the restructured/integrated pay scales within time whether on account of lack of qualifications or otherwise, would continue to persist in the old pay scales and virtually nothing else has been mentioned about the future of such persons by way of their possible upgradation or promotion or the like. In this way, it can be looked upon as an act of favour on the part of the respondents to consider such left out persons for placement by way of promotion in the restructured/integrated pay scales even after the cut-off date although not without ensuring the fulfilment of the prescribed qualifications. It is likely that the respondents looked upon the case of the applicant and the others in this light and accordingly termed it as a "promotion" without realising the true implications of the word "promotion" in the usual sense of the term. As for

us, we do not see much difficulty in accepting that even pay upgradation could be termed as promotion in a certain sense. Nevertheless, the repeated emphasises placed by the respondents on the fact that the applicant has been promoted and their averment that a certain DPC had cleared the applicant's promotion, leaves us in serious doubt about the actual thinking of the respondents, and so ultimately left with no option, we are inclined to view with favour the applicant's contention that he has actually not been promoted and the act of his placement in the scale of Rs.1400-2600/- was an act of mere fitment in the restructured/integrated pay scale of Rs.1400-2600/- for which the prescribed qualifications were duly fulfilled by the applicant although slightly belatedly in point of time.

6. The question now is the date from which the applicant should be placed in the aforesaid restructured/integrated pay scale of Rs.1400-2600/-. It is admitted that he approached the respondents for the first time in February,95 for placement in the aforesaid scale of Rs.1400-2600/- on the ground that he had since been granted a Bachelor's Degree in Library Science. The respondents did not then care to consider this request. Subsequently, after the degree became available to the applicant, he again approached the respondents some time in October,95 with the same request. The matter remained under consideration and, as already stated above, the respondents finally agreed to grant him the said scale of pay from 21.8.96. We are inclined to have a positive view in respect of the date from which the applicant could and

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should have been considered for the grant of the said scale of pay of Rs.1400-2600/- . We would, viewing the situation objectively, favour the grant of the said scale from February,95 when the respondents were first approached by the applicant. We see no reason why the provisional certificate together with the statement of marks filed by him in this connection before the respondents vide his letter of 6.2.95 conveying that he had passed the Bachelor of Library Science Examination held in May,94, should not be respected and acted upon keeping in view the fact that only a little later but much before 21.8.96, the same position was duly confirmed. As regards the promotion of the applicant to the post of Sr.LIA, we do not feel quite sure inasmuch as the documents placed on record do not clearly enough bring to our notice rules and regulations governing the grant of promotion from the post of LIA to that of Sr.LIA. We would, therefore, leave it to the respondents to take an unbiased look at the rules and regulations and consider the applicant for a possible promotion to the post of Sr.LIA in accordance with the applicable procedure.

7. In the result, the OA partly succeeds and we dispose it of by quashing the impugned orders dated 4.11.97 and 19.1.98 with the following directions:-

- i) The respondents should consider placing the applicant in the pay scale of Rs.1400-2600/- w.e.f. 6.2.95 on the strength of the provisional certificate and the statement of marks submitted by him vide his letter of the same date.

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ii) The respondents should appraise the case of the applicant for a possible promotion to the post of Sr.LIA in accordance with the relevant rules and procedures in force at the appropriate time keeping in view the situation arising from the categorisation of the respondents' Library as category-II Library which perhaps required to be headed by a Sr.LIA.

iii) The respondents will comply with the above-mentioned directions within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

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(S.A.T. Rizvi)
Member (A)

Kuldeep Singh
(Kuldeep Singh)
Member (J)

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