

Central Administrative Tribunal
Principal Bench

O.A. No. 805 of 1995

New Delhi, dated this the 28th November, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri C.S. Arora,
S/o Shri B.L. Arora,
R/o A-7, Andrews Ganj Extension,
New Delhi-110049.

... Applicant

(By Advocate: Dr. D.C. Vohra)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110011.

2. Registrar General of India,
Ministry of Home Affairs,
2/A, Mansingh Road,
New Delhi-110011.

.. Respondents

(By Advocate: Shri K.C.D. Gangwani)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 5.7.94 (Annexure A/1) upgrading the post of Director (EDP) in the office of Registrar General of India (RGI) from the existing pay scale of Rs. 4500-5700 to the pay scale of Rs.5100-6300 with immediate effect, and appointing applicant the present regular incumbent of the post, to that upgraded post on ad hoc basis for a period of six months, pending filling up of the post on regular basis, according to the Recruitment Rules (RRs) to be framed for the new post.

2. Heard both sides.

18

3. Admittedly applicant was holding the post of Director (EDP) in the pay scale of Rs.4500-5700 in a substantive capacity w.e.f. 25.3.89. He submitted a representation on 15.12.89 requesting for revising the pay scale of the post of Director (EDP) from Rs.4500-5700 on the grounds that Director of EDP Division in other organisation of Government were enjoying the higher pay scale of Rs.5100-6300.

4. From the materials on record it is apparent that Finance Ministry initially was reluctant to modify the pay scale, as the setting up of the 5th Pay Commission had meanwhile been announced, but subsequently on reconsideration agreed to the creation of a higher level post in the pay scale of Rs.5100-6300 after abolishing the existing post in the pay scale of Rs.4500-5700 with the condition that the newly created post should be filled up according to the new RRs framed for the new created post.

5. In view of the above respondents cannot be faulted for issuing impugned order dated 5.7.94 upgrading the erstwhile post of Director (EDP) in the scale of Rs.4500-6300 to that of Rs.5700-6300 with immediate effect, and appointing applicant who is the regular incumbent to the upgraded post on ad hoc basis for six months pending filling up of the post on regular basis according to the RRs, to be framed for newly upgraded post, which is separately being

(9)

finalised. Pending finalisation of those RRs for the newly upgraded post applicant's appointment on ad hoc basis has been continued from time to time.

6. In the light of the facts and circumstances noticed above, clearly applicant cannot be appointed on regular basis to the upgraded post of Director (EDP) without reference to the RRs for that upgraded post, and that too from a date nearly five years prior to the coming into existence of that upgraded post, *which is his prayer in the present O.A.*

7. Applicant's counsel has handed over across the Bar a list of citation which include AIR 1967 SC 1269 State of Orissa Vs. Dr. (Miss) Binapani Devi & Ors.; AIR 1968 SC 240 M.S. Naidu Vs. State of M.P. AIR-1970 SC 1302 Mahabir Prasad Vs. State of U.P.; AIR-1972 SC 2472 B.D. Gupta Vs. State of Haryana and 1988 (2) SCALE 1376 H.L. Trehan & Ors. Vs. Union of India but the impugned orders dated 5.7.94 do not attract the ratio contained in any of those rulings.

8. The O.A., therefore, warrants no interference and is dismissed. No costs.

A. K. Vedavalli

(Dr. A. Vedavalli)
Member (J)

'gk'

S. R. Adige

(S.R. Adige)
Vice Chairman (A)