

Central Administrative Tribunal  
Principal Bench

C.P. No. 06 of 2000

in

O.A. No. 1603 of 1997

(39)

New Delhi, dated this the 22<sup>nd</sup> December, 2000

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

Shri Shri Niwas Gupta,  
Retd. Govt. Librarian,  
S/o Shri Ram Swarup Gupta,  
R/o B-3, Laxmi Garden,  
Najafgarh, New Delhi. . . . . Applicant

(By Advocate: Shri H.C. Sharma)

Versus

1. Union of India through  
the Director of Education,  
Shri S.C. Poddar,  
Govt. of National Capital Territory of  
Delhi, Old Secretariat,  
Delhi. . . . . Respondents
2. Shri Arya Vir,  
The Drawing & Disbursing Officer,  
Govt. Library, Najafgarh,  
5/9, Under Hill Road,  
Delhi. . . . . Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

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

Heard both sides on C.P. No. 6/2000  
alleging contumacious disobedience of the Tribunal's  
order dated 6.1.99 in O.A. No. 1603/97.

2. In that O.A. applicant had sought  
payment of arrears in selection grade salary from  
5.9.71 to 20.6.79 with payment of interest @ 24% p.a.  
thereon for delayed payment.

3. That O.A. was disposed of by order dated  
6.1.99 with certain directions. Specifically a

(AO)

direction was issued to respondents to release the aforesaid dues for the period 5.9.71 to 30.6.79 with interest @ 12% p.a. thereon from 1.7.95 until the date of receipt of a copy of the order, pursuant to their own O.M. dated 20.6.95, of it they concluded that applicant was not entitled under rules and instructions to selection grade for that period, pass a detailed, speaking and reasoned order within the aforesaid period, stating precisely how they came to this conclusion.

4. Pursuant to the aforesaid directions respondents issued impugned order dated 29.1.2000 holding that applicant was not entitled to selection grade and withdrawing their order dated 30.5.79 by which selection grade had been granted to him upto 5.9.71.

5. Meanwhile applicant had filed the present C.P. alleging contumacious disobedience of the Tribunal's order dated 6.1.99 in O.A. No. 1603/97.

6. When the C.P. came up for hearing on 3.8.2000 applicant's counsel had submitted that respondents could not withdraw the benefits of selection grade sanctioned to applicant by order dated 30.5.79 w.e.f. 5.9.71, by an order passed over 20 years later on 29.1.2000, more so as applicant's pensionary benefits had been calculated upon his pay in the selection grade.

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7. Respondents were directed to clarify the position by filing a further affidavit,

(A)

8. The same has been filed by respondents on 22.9.2000, a copy of which is on record.

9. In that affidavit it has been stated that respondents' order dated 4.3.74 (Annexure R-3) makes clear that selection grade would be admissible for 15% of the permanent posts of librarian working in Higher Secondary Schools in Delhi, appointment to which would be made on the basis of seniority subject to fitness. It is stated that ~~an~~ applicant was appointed as a librarian in a public library, and was never appointed as a senior librarian in any Higher Secondary School in Delhi. It is further stated that the selection grade granted to applicant vide order dated 30.5.79 was subject to the Delhi High Court's decision in CWP No. 223/78 and CWP No. 383/78 and in CWP No. 966/78 Sheo Raj Singh Vs. Delhi Administration and 25 others, in which applicant was <sup>which</sup> Respondent No. 5, <sub>6</sub> was disposed of by order dated 10.3.80 (Annexure R-5). Attention has also been invited to the Tribunal's order dated 28.2.94 in T.A. No. 460/85 (Annexure R-6), as well as Principal Accounts Office's letter dated 24.10.79 (Annexure R-7), wherein it has been stated that all sanctions issued by the Directorate of Education for grant of selection grade to various categories mentioned in an earlier letter may be accepted, and arrears paid,

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except in the case of librarian in whose cases the payment of arrears on account of grant of selection grade is not to be made till further orders. (A2)

10. Respondents further state that they have not issued any order for reduction of applicant's pensionary benefits so far, and revision/reduction if any shall be considered in accordance with the provision of Rule 70 CCS (Pension) Rules, which requires prior approval of Department of Personnel & Training. In this connection it is stated that Rule 70 ibid does not require any show cause notice to be issued before revision/reduction in applicant's pension.

11. In the background of what has been stated above, and having regard to Hon'ble Supreme Court's ruling in J.S. Parihar Vs. S. Duggar and Others JT 1996 (9) SC 608 we are satisfied that there are no good grounds to proceed with these contempt proceedings. If applicant is aggrieved by respondents' order dated 29.1.2000, it gives applicant a fresh cause of action, which he may challenge separately through appropriate original proceedings in accordance with law if so advised.

12. In this connection we note that applicant had retired on superannuation quite some time back and is of advanced age. We have, therefore, no doubt in our mind that respondents will not take any steps to revise/reduce applicant's pension at this late stage of his life, even if,

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according to respondents, he was not entitled to pay fixation in selection grade at the time he retired on superannuation. (A3)

13. Subject to what has been stated in Paras 11 and 12 above, the C.P. is dropped. Notices discharged.

A Vedavalli

(Dr. A. Vedavalli)  
Member (J)

'gk'

S. R. Adige

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