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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1603/97

With

M.A.No.646/98

M.A.No.1827/98

(19)

New Delhi: this the 6th day of JANUARY, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Shri Sri Niwas Gupta,
Retd. as Librarian, From Govt. Library,
Najafgarh-Delhi,
S/o Shri Ram Swarup,
R/o 479, Gali Arya Samaj,
Najafgarh,
Delhi -043

..... Applicant.

(By Advocate: Shri J.K. Gupta).

versus

The Director of Education,
Directorate of Education of the Govt. of
National Capital Territory of Delhi,
Old Secretariat,
Delhi.

2. The Drawing and Disbursing Officer,
Govt. Library,
Najafgarh,
New Delhi- 043

..... Respondents.

(By Advocate: Shri Raj Singh for
official respondent)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant seeks payment of arrears in selection
grade salary from 5.9.71 to 30.6.79 with payment
of interest @ 24% p.a. on delayed payment.

2. His case is that he was appointed as Librarian
and was posted at Govt. Library, Najafgarh, Delhi
vide Office Order dated 19.11.59 (Annexure-A3).
Subsequently he along with other Govt. librarians
were sanctioned selection grade w.e.f. 5.9.71
vide order dated 30.5.79 (Annexure-A4). He states
that he was paid his monthly salary from July, 1979
to July, 1981 in the selection grade pay scale and
retired on superannuation on 31.7.81 but was not

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paid the arrears in the selection grade scale in view of a pending court case which has since been decided. He states that he represented for the aforesaid arrears on 10.4.96 (Annexure-A5), and the Administrative Officer(E-IV) had advised to Deputy Director of Education, Distt. South West to look into the applicant's claim for settlement vide letter dated 13.12.96 (Annexure-A6), but respondent No.2 who was the Drawing & Disbursing Officer, Govt. Library, Najafgarh and was posted there till his retirement, had not made payment of aforesaid arrears.

3. The official respondent have filed reply in which they have stated that applicant was granted selection grade vide letter dated 30.5.79 though in violation of Govt. of India's letter dated 4.3.74 (Annexure-A1). It is also stated that after applicant's retirement his successor reported that books and other materials amounting to Rs.50,149/- were found short. Since applicant's dues were cleared by the DDO at the time of his retirement without making recoveries of Rs.50,149/-, applicant was asked by respondents to get the matter sorted out with his successor but he remained silent for a long time and in the year 1994 filed a representation (Annexure-A7 to the OA) for payment of arrears of selection grade which was withheld as the matter was subjudice in the Delhi High Court. Respondents state that on 20.6.95, they issued an O.M. directing the DDO, Govt. Library, Najafgarh, Delhi to make payment of arrears to the applicant (Annexure-A1) and a letter dated 9.1.96 was addressed to applicant seeking clarification regarding loss

of books during his tenure and further letter dated 11.9.97 was also addressed to him to appear before the authorities for redressal of his grievances but he never turned up and gave no reply. Respondents also state that OA is barred by limitation and is not maintainable for want of bonafide and is without jurisdiction.

4. I have heard applicant's counsel Shri J.K. Gupta and official respondent's counsel Shri Raj Singh.

5. In so far as the ground of limitation is concerned, manifestly applicant's cause of action arose from respondents' own order dated 20.6.96 (Annexure-A1). Thereafter he sent representation to the respondents, and they themselves aver that recently on 11.9.97 i.o. after the OA was filed, they directed him to appear before them for redressal of his grievances. Hence they legally cannot take this plea of limitation which is rejected.

6. In so far as the grant of selection grade scale being in violation of Govt. of India's letter dated 4.3.74 is concerned, respondents by their own OM dated 20.6.95, have issued directions for release of selection grade arrears to applicant and nothing has been shown to me to establish that the aforesaid OM dated 20.6.95 has been recalled or rescinded.

7. Furthermore respondents do not deny that applicant has already been paid selection grade

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scales for the period from 1979 till the date of his retirement in 1981.

8. As regards the shortage of books and other materials amounting to Rs.50,149/- which allegedly relate to applicant's tenure as Librarian, respondents would in the first instance be required to fix responsibility for this loss after holding an inquiry in accordance with rules and instructions, in which applicant would also be required to cooperate and it is only thereafter that recoveries can be ordered to be made from those found responsible for the shortage, in accordance with law to the extent of their own culpability in the matter. No materials have been shown to me by the respondents to establish that this has been done and nor have any rules or instructions been shown to me, to suggest that applicant's selection grade arrears, the release of which has been ordered by respondents themselves vide their letter dated 20.6.95, can continue to be withheld, because of the alleged shortage of books and materials amounting to Rs.50,149/-, relating to his tenure as Librarian, Najaigarh Library.

9. During hearing one Shri Mangat Ram Sharma also appeared. He had earlier filed MA No. 646/98 seeking intervention in this OA. Notices on this MA seeking intervention had been ordered to be issued to applicant as well as official respondents. No final orders on his prayer for intervention had been passed till the date of hearing, but in the interest of justice, he also was heard.

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His contention was that applicant not being a School Librarian, and being only an Institutional/ Govt. Librarian was not entitled to selection grade.

10. After giving the rival contentions careful consideration, this OA is disposed of with a direction to respondents to

- (i) delink the question of shortage of books and other materials amounting to Rs.50,149/- relating to applicant's tenure as Librarian, Najafgarh Library from the question of release of his selection grade dues for the period 5.9.71 to 30.6.79;
- (ii) either release the aforesaid dues for the period 5.9.71 to 30.6.79 with interest @ 12% p.a. thereon, from 1.7.95 upto the date of receipt of a copy of this order, pursuant to their own OM dated 20.6.95, or if they conclude that the applicant is not entitled under rules and instructions to selection grade for this period, pass a detailed, speaking and reasoned order within the aforesaid period stating precisely how they have come to this conclusion.
- (iii) It will be open to respondents to recover the shortage of books and other materials relating to the applicant's tenure as Librarian, Najafgarh Library in accordance with law after conducting a proper

enquiry and fixing responsibility on
all those at fault, including those
who failed to take appropriate action
in this regard, at the time applicant
retired on superannuation on 31.7.81.

11. The OA is disposed of in terms of para 10
above. No costs.

Mr. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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