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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2209/97

New Delhi, this the 13th day of August, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

O.P. Viksit
S/O Late Shri Khem Chand,
R/o C-81, Surajmal Vihar,
Delhi - 110092. Applicant
(Applicant in person)

Vs.

1. The Lt. Governor through
Chief Secretary,
Govt. of Delhi,
5 - Sham Nath Marg,
Delhi - 110054.
2. The Director-cum-Secretary,
Dte. of Training & Technical Education,
C-Block, Vikas Bhawan,
New Delhi - 110002. Respondents
(By Advocate: Sh. S.K. Gupta proxy for
Sh. B.S. Gupta)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)

The applicant, who retitled as Principal, ITI,
Narela, Delhi on 31.7.95 after putting in more than 35
years of service in the Directorate of Training and
Technical Education, Delhi, has filed this OA claiming
selection grade of Craft Instructor from 16.2.74, i.e.,
the date of completion of 14 years service, instead of
9.2.77, which according to the applicant is an 'arbitrary
date'. The applicant had earlier also come to the
Tribunal by filing OA-1656/95 which was allowed by the

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judgment order dated 13.2.96. It was held that the applicant having entered into service on 16.2.1960 the Department could not deny to him the benefits of the higher selection grade and the appropriate financial benefits flowing therefrom. The Tribunal by the aforesaid judgment also quashed the order dated 12.12.94 by which the earlier order dated 28.1.93 had been cancelled and directed the respondents to pay to the applicant all arrears of pay etc. arising from the order dated 28.1.93.

2. It appears that the respondents did not implement the judgment within the prescribed time and the applicant accordingly filed MA-1493/97 seeking the implementation of the judgment (supra). The MA came to be decided on 7.8.97 and applicant was directed to file a detailed representation and respondents were also directed to examine the anomaly claimed by the applicant and pass a speaking order within 4 weeks from the date of receipt of the representation. It further appears that the applicant had filed a Contempt Petition also, being CP No. 229/96, which came to be dismissed by the order dated 28.11.96 on the ground that since the operation of the order dated 19.11.96 had been stayed by the Hon'ble Supreme Court the CP could not lie.

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3. We further find that the appeal filed by the respondents in the OA against the judgment order dated 13.2.96 was dismissed by the Hon'ble Supreme Court with the following observations:-

"Keeping in view the fact that the respondent had been appointed as Craft Instructor on February 16, 1960 and that lien had been retained by him althrough out, the view of the Tribunal that he had completed 14 years of service and was entitled to the selection grade in 1974 does not call for any interference."

4. The instant OA is directed against the inaction on the part of the respondents to fix the applicant's pay in the selection grade from 16.2.74.

5. The respondents have in their counter taken the plea that mere completion of 14 years of service would not by itself be sufficient to entitle a Craft Instructor to the selection grade from the date of completion of 14 years service. It is further averred that the grant of selection grade depends upon the availability of vacancy and the seniority of the individual Craft Instructor.

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6. During the course of his arguments the learned counsel for the respondents reiterated the aforesaid contentions. He further argued that on a bare reading of the judgment of the Tribunal dated 13.2.96 it would become quite clear that the order dated 28.1.93 had been restored and according to that order the applicant was to be granted selection grade from 9.2.77. This having already been done the applicant could have no grievance.

7. In reply, the applicant has laid emphasis on the observations made by the Hon'ble Supreme Court in the judgment in STP which observations have been extracted hereinabove. According to those observations the applicant was to be granted selection grade from the date of completion of 14 years from 16.2.1968, which comes to 16.2.74. In view of observations made by the Apex Court, the contention of the applicant has to be accepted.

B. For the foregoing reasons, we are convinced that the relief claimed by the applicant in this OA deserved to be allowed. We accordingly allow this OA and direct the respondents to fix the pay of the applicant in selection grade of Craft Instructor w.e.f. 16.2.74 instead of 9.2.77 and to pay to the applicant the arrears

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of the difference of pay up to the date of his retirement and further refix his pension accordingly. However, the applicant's prayer for interest and cost is disallowed.

9. We further direct that this order shall be implemented within 3 months from the date of receipt of copy of this judgment.

No costs.

(S-P. BISWAS)
Member (A)

Subj 13.8.98
(T.N. BHAT)
Member (J)

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