

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2006/1994

New Delhi, this 20th day of January, 1995

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Dr. Santokh Singh  
s/o Shri Sital Singh  
C-519, Pragati Vihar Hostel  
New Delhi

.. Applicant

(By the applicant in person)

Versus

Union of India, through

1. Secretary  
Deptt. of Legal Affairs  
Ministry of Law, Justice & Company Affairs  
Shastri Bhawan, New Delhi

2. Member Secretary  
Law Commission of India  
Shastri Bhawan  
New Delhi

.. Respondents

By Shri E.X. Joseph, Senior Advocate

ORDER

The applicant was functioning as a Senior Lecturer in the Government college under the Government of Rajasthan. He was appointed as Assistant Law Officer on deputation in the Law Commission from 3.10.88. Prior to deputation, he was functioning in the scale of Rs.2200-4000 with the Rajasthan Government. The post of Assistant Law Officer in Law Commission is in the pay scale of Rs.3000-4500. While on deputation the applicant, the applicant sought absorption and from 24.4.92 he was absorbed as Assistant Law Officer on transfer basis.

The Rajasthan Government issued an order on 27.2.93 by which the applicant was fixed in the senior scale of Rs.3000-5000 retrospectively with effect from 21.1.90.

/

Thereupon, the applicant started agitating for absorption in Law Commission in scale of Rs.3700-5000 from 21.1.90 and for all consequential benefits. Since the respondents have not acceded to this request, this OA has been filed.

3. The applicant appeared in person and argued this case.

4. The main ground is that in his parent department, the applicant was deemed to be functioning in the senior scale of Rs.3000-5000 with effect from 21.1.90. Hence his absorption in the new department can not be in a lower scale of Rs.3000-4500 and the appropriate scale for absorption would be Rs.3700-5000. The Office Memorandum of the Department of Personnel dated 7.3.84 was relied upon. This memorandum deals with the subject of criteria for determining analogous posts. The relevant para is as under:

"(i) Though the scales of pay of the two posts which are being compared may not be identical, they should be such as to be an extension of or a segment of each other, e.g. for a post carrying the pay scale of Rs.1200-1600, persons holding posts in the pay scale of Rs.1100-1600 will be eligible and for a post in the scale of Rs.1500-2000, persons working in posts carrying pay scales of Rs.1500-1800 and Rs.1800-2000."

5. It is the case of the applicant that his parent scale being Rs.3000-5000 for absorption purpose, the scale of Rs.3700-5000 which forms the segment of the parent scale should have been extended to him.

6. The learned counsel for the respondents argued that the OM relied upon is only for the purpose of determining the eligibility. The OM nowhere states that in the cases of persons who have been already absorbed, the issue should be reopened just because the absorbed persons were given higher

scale retrospectively on a later date of absorption. It is also argued that separate recruitment rules apply for filling up the posts in the scale of Rs.3700-5000 (Deputy Law Officer). Such posts are to be filled partly by promotion and partly by transfer on deputation. The applicant having been absorbed in the Law Commission would be considered in due course against the promotion quota.

6. I find the issue to be decided falls in a narrow compass. The applicant was absorbed as Assistant Law Officer in the scale of Rs.3000-4500 with effect from 24.4.92 after he sought such an absorption. Subsequently on 27.2.93, his erstwhile parent department gave him the benefit of Rs.3000-5000 with effect from 21.1.90. This by itself does not give any right to the applicant for moving automatically into a different grade higher than the grade in which he had already been absorbed in the year 1992. Even if there are posts in the new department in the scale of Rs.3700-5000, the procedure prescribed in filling up such posts is to be followed. The recruitment rules do not envisage automatic absorption as claimed by the applicant by virtue of the orders of the Rajasthan Government dated 27.2.93. If the applicant had any grievance, he should have raised the issue regarding repatriation for consideration. This has not been done by him.

6. The OM of Department of Personnel dated 7.3.84 relied upon by the applicant merely spells out the criteria for determining the analogous posts. In the case of the applicant, the process of absorption had already been

completed in April, 1992 and the subsequent development of 1993 can not give rise to reopening the act of absorption which had been completed earlier.

7. The applicant relies on a number of citations. I do not find it necessary to discuss these since these relate to the pay fixation on transfer, reduction in pay on transfer, grant of appropriate pay scale when a given establishment is taken over by another establishment and issuing show cause notice where reduction in pay takes place. Admittedly, the applicant has not suffered any loss in pay on transfer; rather his pay has increased and what is sought in this OA is grant of a higher scale. Hence, the citations quoted are not relevant to the disposal of this OA.

8. In the circumstances, the OA is dismissed with no orders as to cost.

*P. T. Thiruvengadam*  
(P.T.Thiruvengadam)  
Member(A)

/tvq/