

14
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1487 OF 2000

New Delhi this the 21st day of December, 2000

(V) 15
Hon'ble Sh. V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S.Tampi, M (A)

Dr. M.H.QureshiApplicant
(By Advocate: Sh. M.K.Gupta)

VERSUS

Union of India & Ors.Respondents
(By Advocate :Sh. K.C.D.Gangwani)

1. To be referred to the Reporter or not? Yes ✓
2. To be circulated to other Benches of the Tribunal? No

(Govindan S. Tampi)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1487/2000

16

New Delhi, this the 21st Day of Dec. 2000

Hon'ble Justice Shri V Rajagopala Reddy, VC(J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

Dr. M H Qureshi,
S/o Sh. A H Qureshi,
R/O 34, Village & PO Kahlwali,
Dehradun (UP)

Dr. Arvind Kumar,
S/o Dr. T R Varshney,
R/o 142, Vasant Vihar, Phase-II,
Dehradun (UP)

.....Applicant
(By Shri M K Gupta, Advocate)

Vs

Union of India
Through its Secretary
Min. of Defence, South Block,
New Delhi

The Director General of Military Training,
General Staff Branch (MT-7)
Army HQs, New Delhi

Indian Military Academy,
Through its Commandant
Dehradun (UP)

The Secretary,
Ministry of Finance,
Dept. of Expenditure,
North Block, New Delhi

.....Respondents

(By Shri KCD Gangwani)

ORDER (ORAL)

Hon'ble Shri Govindan S Tampi, Member (A)

✓

The relief sought for in this application is the grant of the Revised Pay Scales following adoption of the 5th Pay Commission recommendations to the Academic Staff attached to the Indian Military Academy, Dehradun. (17)

2. The applicants who are working as Reader in the Department of Physics and Senior Scale Lecturer in the Mathematic hold civilian posts in IMA and teaching the Army Cadets in the IMA Dehradun. National Defence Academy, Khadakvasla Pune and the Army Cadet College of Indian Military academy, Dehradun (IMA) are among the ~~two~~ Institutions imparting training for Graduate Degrees to the Army cadets in the pattern of Universities, and are affiliated to Jawahar Lal University, New Delhi which is a Central University. The applicants indicate that the respondents have not implemented the revised UGC package formulated following the adoption of the 5th Central Pay Commission recommendations, as notified by the Ministry of Human Resources Development vide their circular dated 25.7.98 duly amended in November 1998. The Ministry of HRD which is a nodal Ministry for Education in the Country issued a circular on 27.7.98 revising the pay scales of academic staff attached to the Universities and colleges, following the adoption of the recommendations of 5th Central pay Commission. The said circular was amended by the HRD Ministry on 6.11.98. According to the applicants, JNU with which Army Cadet College of IMA and NDA are affiliated, has adopted the revised pay scales for their staff but IMA and NDA have not adopted the same for their academic staff. ✓ as yet.

With the result, those like the applicants, were still drawing their pay and allowances granted on the adoption of 4th Central Pay Commission recommendation.

(8)

3. The applicants have made representations for extension of benefits contained in the circulars dated 22.7.98 as amended vide letter dated 6.11.98 to them also. Though the same has been strongly recommended by the Respondent No. 3, ~~the~~ no final decision has been taken by the Defence Ministry for reasons best known to them. ~~also~~ On account of this, applicant No. 1 who had attained the age of 60 years on 20.8.2000, was denied the benefit of the higher age of superannuation of 62 which was also a part of the UGC package. The applicants therefore reiterate their pleas for revision of their pay scales as well as raising of the retirement age.

4. The respondents were permitted to file their delayed counter only after they paid the cost of Rs.1500/- to the applicants. According to them, inspite of affiliation with JNU, organisations like NDA and IMA are not on par with the universities and their staff are civilian employees of the Ministry of Defence and therefore it was for the said Ministry to pass orders in their case. Directions of HRD Ministry as contained in the OM of July 1998, duly amended in November 98 was not ipso facto applicable in their case, unless endorsed by the Defence Ministry. Respondents also point out that the matter is under active consideration of the Defence Ministry and the applicants shall wait for the decision

of that Ministry. The applications, in the circumstances shall have to be dismissed, plead the respondents.

(9)

5. Heard the counsel for the applicants and the Respondents. Shri M K Gupta, learned counsel appearing for the applicants invites our attention to the Ministry of Defence letter No. OC/47020/Misc/S/MF-7 dated 2.4.93 addressed to the Chief of Army Staff/~~f~~ ^{for} extending UGC pay scales to the civilian teaching staff of NDA Khadakwasla and Army Cadet College of IMA Dehradun, following the adoption of reconsiderations of UGC subsequent to 4th Pay Commission, as well as the letter dated 10.2.94 from JNU, New Delhi to the Secretary UGC in the matter of affiliation of the NDA Khadakwasla and Army Cadet College Wing of IMA Dehradun. It is specifically stated in JNU's letter that both NDA Pune and Army Cadet College, which is a wing of the Indian Military Academy Dehradun, are recognised by University in terms of Section 5(13) of the JNU Act, subject to the stipulation that the conditions of service of the faculty, would be at par with that of the JNU. This has been accepted by the Ministry of Defence. Seen in this context, the letter dated 27.7.98 issued by the Min. of HRD revising the pay scales of staff of the Universities and colleges following the adoption of the recommendations of 5th Central Pay Commission and second letter of 6.11.98 on the same subject becomes relevant. According to the counsel, ~~it~~ these two letters would ^{show} clearly that the revision of pay scales, ~~has~~ adopted following the recommendations of 5th Pay Commission would become automatically available to the Academic

Staff attached with NDA Pune and Army Cadet College of IMA Dehradun. Their having issued by the nodal ministry on education i.e., HRD Ministry. The benefit would have to be extended to them and the fact even more than four years after adoption of the revised pay scales in all other departments of the Govt of India, this remains to be done in the case of the applicants is unfortunate. This should be rectified immediately. At the same time, the counsel fairly concedes that issue with regard to the ~~reasons~~, the age of superannuation has already been considered and decided against them by full Bench of Tribunal retaining the age at 60 itself. (20)

6. Shri KCD Gangwani, the learned senior counsel appearing on behalf of the respondents, fiercely challenges the above submissions reiterating, the applicants are only civilian employees under the Ministry of Defence who are teaching the cadets in NDA Khadakvasla and IMA Dehradun and therefore plea made by the applicants that the nodal Ministry concerned is that of HRD is not correct.. According to him, unless and until the revised pay scales as formulated by the HRD or circulated through UGC for adoption by the Universities are adopted by the Ministry of Defence and duly communicated to Commandants-in-Charge of IMA and NDA for ~~implementation~~ the applicants cannot be granted the revised scale. The ~~affiliation~~ with JNU or not is immaterial in this context. The counsel says that it is not that grant of such scales will not be taken up. In fact it is under the active consideration of the Ministry of Defence and once it is decided to adopt and extend the

same, the appellants would be entitled for the same with arrears. Till such time they would have to wait, is the plea by the learned counsel.

(21)

7. We have carefully deliberated on the matter. It is clearly brought on record that both NDA Khadakwasla and the Army Cadet College of IMA, Dehradun are two academic institutions, though attached to the Ministry of Defence for the purpose of administration, ^(J.N.U.) are affiliated with Jawaharlal Nehru University, New Delhi for academic purposes. This is made clear in the letter dated ^{from J.N.U. to De University Grants Commission (U.G.C.)} 2.2.94, reproduced below:

" Enclosed is a copy of communication dated October 22, 1993 addressed by the Govt./ of India, Ministry of Defence New Delhi seeking certain clarifications regarding implementation of UGC pay scales for civilian members of the faculty of NDA and ACC Wing of IMA.

Both the National Defence Academy, Pune and Army Cadet College which is a wing of the Indian Military Academy, Dehradun, are recognised by this University in terms of Section 5(13) of the JNU Act. One of the conditions stipulated in the recognition is that the conditions of service of the faculty, would be at par with that of the JNU.

We would appreciate if necessary clarifications could be given at your early convenience to the Ministry of Defence New Delhi, under intimation to this University, to facilitate early implementation of the recommendations of the Fourth Pay Commission pertaining to the faculty."

The communication clarifies that the conditions of service of the teaching faculty in the above two institutions shall be par with those in the University or colleges attached to the University, unless otherwise specified or exempted. And pay and allowance specifically come under the ambit of the conditions of service. Evidently this fact has been recognised by the

Ministry of Defence in their letter dated 2.4.93, addressed to the Chief of the Army Staff, which reads as below:

(22)

"I am directed to refer to this Ministry's letter No. 1(2)/82/D(Civ.I) dated the 20th January 1983 as amended from time to time notifying the revised pay scales for the civilian teaching staff of NDA, Khadakwala and ACC Wing, IMA, Dehradun from 01.01.1983 based on the UGC pay scales applicable to teachers in universities/colleges and to say that the Government has revised the pay scales of teachers in universities/colleges w.e.f. 01.01.1986. The question of extending these revised scales to the civilian teaching staff in NDA Khadakwasla and ACC Wing, IMA, Dehradun has been under consideration of the Government. The President is now pleased to revise the pay scales of civilian teaching staff in the two Army Institutions wef 01.01.1986:-

Sl No.	Name of the post	Existing scale of pay	Revised scale of pay
1.	Principal/Vice Principal/Professors.	Rs.1500-60-1800-100-2000-125/2-2500.	Rs.4500-150-5700-200-7300
2.	Reader	Rs.1200-50-1300-60-1900	Rs.3700-125-1950-150-5700
3 (i)	Lecturer	Rs.700-40-900-EB-40-1100-50-1300	Rs.2200-75-2800-100-4000
	(ii) Lecturer(Senior scale)	Not existing	Rs.3000-100-3500-125-5000
	(iii) Lecturer Selection Grade)	Not existing	Rs.3700-125-4950-150-5700

The existing civilian teaching staff (as on 01.01.1986) will be placed in the revised scales of pay alongwith the designation, subject to the following stipulations:-

i) The revised scale of Rs.2200-4000 may be extended to lecturers who fulfilled the educational qualifications prescribed by the NDA/ACC Wing at the time of their initial recruitment. If, however, any lecturers had been recruited in relaxation of these qualifications, they should be placed in the revised scale but would not earn any increment till they attain the prescribed qualifications.

ii) The existing Readers (as on 01.01.1986) may be allowed the revised pay scale of Rs.3700--5700. The Lecturers promoted as Readers after 01.01.1986 (against the vacancies belonging to pr-86 period), may also be allowed the revised scale of Rs.3700-5700 with the designation of Readers provided the vacancies existed on 17.06.1987. The revised scale of pay will be personal to such Readers. All future appointments will be made strictly in accordance with the UGC package. (23)

iii) Professors who were in service on 01.01.1986 as well as Professors who though in service on 01.01.1986 but who relinquished the post subsequently may be allowed the revised scale of Rs.4500-7300. The revised pay scales will be personal to such Professors. All future appointments will be made strictly as per UGC package.

The same career progression in the case of Lecturers will be adopted in the two Institutions as approved by the UGC and subject to the same conditions as contained in the UGC Scheme. For this purpose, Ministry of Defence will set up Screening Committee, wherever necessary, to consider the cases of Lecturers keeping in view the guidelines on the subject contained in the UGC package.

The existing Recruitment Rules for appointment to the vacant posts of Lecturers, Readers and Professors will stand superceded to the extent they are inconsistent with the qualifications and method of recruitment as prescribed under the UGC Package after 01.01.1986. The Recruitment Rules for the post of Lecturers/Readers/Professors shall provide for Direct Recruitment on All India basis at each level, and the Recruitment qualifications will also be strictly the same (without any modification) as approved by UGC at these levels.

The UGC package without any modification will be ~~fixed~~ adopted by NDA/IMA in future.

The Vice principal, Professors, Readers and Lecturers of the NDA will continue to get as hitherto a special allowance of Rs.150/- p.m. The Principals at NDA, Khadakwasla and ACC Wing , IMA, Dehradun will continue to be provided with rent free unfurnished accommodation of their entitlement.

The pay of teachers will be fixed in the revised scale on 01.01.1986, in accordance with formula given in Annexure-2 to Appendix -1 to the Ministry of Human Resources Development (Department of Education) letter No. F.1.21/87-U.1 dated 22 July 1998. The pay and allowances drawn by the teaching staff w.e.f. 01.01.1986 shall be adjusted while paying arrears under the present orders.

This issues with the concurrence of Finance Division vide their UO No. 441/PA dated 31.03.1993."

(24)

The above letter has extended the benefit of the revised pay scales adopted by the Govt to the academic staff in the Universities to the faculty in NDA Khadakvasla and ACC of IMA Dehradun. The same, though issued in 1993 takes effect from 1.1.86, when the 4th Pay Commission were given effect to. To our mind, the extension of similar benefits following the adoption of the recommendations of the 5th Pay Commission would have to be a logical corollary. We therefore see the adoption of the recommendation of the 5th pay Commission by the Min. of HRD, Department of Education the nodal ministry on the subject in the country, circulated by its letter dated 27.7.98, amended on 6.11.98, in the above light. ~~the Govt. policies are substituted as follows~~

8. The governance of the state are handled through various Ministries and Departments dealing with specific matters, in which the writ of the concerned nodal ministry has to run. Admittedly, as far as academic and educational activities are concerned the nodal Ministry is that of HRD and the adoption of the policies ~~on~~ ^h education by the Ministry, subject to financial situation, will have to be adopted by all, engaged in the field of education, wherever they are or whichever Ministry in whose care they are placed for administration. This would apply to academic institutions under the Ministry of Defence also, especially as the said institutions have sought and obtained affiliation to and recognition by a Central University. This cannot be wished away by saying that

the recognition or affiliation by the University is immaterial and that Min. of Defence will determine the issues on education on its own. Inspite of HRD's specific mandate.

9. HRD Ministry's communications (dated 27.7.98 and 6.11.98) are reproduced in full as they lay down the policy:

to U.G.C.

"I am directed to say that the Government of India have, after taking into consideration the recommendations made by the University-Grants Commission, decided to revise the pay scales of teachers in the Central Universities. The revision of pay scales of teachers will be subject to various provisions of the Scheme of revision of pay scales as contained in this letter, and the Regulations to be framed by the UGC in this behalf. The revised pay scales and other provisions of the Scheme are as under:-

1.(i) Pay Scales

A statement showing the existing and revised scales of pay is attached as Annexure.

The revised scales of Demonstrators/Tutors is for the existing incumbents only. No fresh recruitment shall be made to the cadre of Demonstrators/Tutors.

2. (ii) Incentives for Ph.D./M.Phil

(a) Four and two advance increments will be admissible to those who hold Ph.D. and M.Phil degrees, respectively, at the time of recruitment as Lecturers.

(b) One increment will be admissible to those teachers with M.Phil who acquire Ph.D. within two years of recruitment.

(c) A Lecturer with Ph.D. will be eligible for two advance increments when he moves into Selection Grade as Reader.

(d) A teacher will be eligible for two advance increments as and when he acquires a Ph.D. degree in his service career.

3. (iii) Career Advancement

(a) Minimum length of service for eligibility to move into the grade of Lecturer (Senior Scale) would be four years for those with Ph.D., five years for those with M.Phil, and six years for others as a Lecturer, and for eligibility to move into the Grade of Lecturer (Selection Grade)/Reader, the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years.

(b) For movement into grades of Reader and above, the minimum eligibility criterion would be Ph.D. Those teachers without Ph.D. can go upto the level of Lecturer (Selection Grade).

(c) A Reader with a minimum of eight years of service will be eligible for consideration for appointment as a Professor.

(d) For every upward movement, a selection process would be evolved, for which appropriate guidelines would be laid down by the UGC in consultation with the Government.

(iv) Rewarding the Merit

(a) A supertime scale of Rs.22000-500-24500 will be given to such Professors of Eminence who are directly recruited and have completed 28 years of service. The eligibility criteria and the selection process will be determined by the UGC.

(b) University Grants Commission would prepare a specific scheme in consultation with Government to reward and recognise meritorious teachers who may not have M.Phil or Ph.D. but who have made outstanding contributions in teaching and research.

(v) Allowances, effective date and fitment formula

(a) The revised scales of pay as contained in the Annexure-I will be given prospective effect from the date of issue of this letter.

(b) For the period from 1.1.96 to the day on which these decisions take effect, pay will be fixed in the replacement scales recommended by the UGC appointed Pay Review Committee as per Annexure-II.

(c) Pay with effect from 1.1.96 in the revised scales of pay will be fixed after giving the benefit of one increment for every three increments earned in the pre-revised scales as stipulated in Rule 7 of Central Civil Services (Revised Pay) Rules, 1997, and governed by other relevant provisions of Central Civil Services (Revised Pay) Rules, 1997 as applicable.

(d) Pay in the revised scales of pay as at Annexure-I of this letter shall be fixed at the same stage with reference to the stage admissible vide para (c) above. In cases where the same stage is not available, the pay may be fixed at the stage next above the pay admissible vide para (c) above.

(e) The payment of arrears will be made in one instalment.

(f) Teachers in Central Universities will be entitled to Dearness Allowance, House Rent Allowance, Transport Allowance, City Compensatory Allowance and other allowances at the same rates and dates as applicable to the Central Government employees.

(vi) Age of Superannuation

The age of superannuation of university and college teachers would be 62 years and thereafter no extension in service should be given. However, it will be open to a university or college to re-employ a superannuated teacher according to the existing guidelines framed by the UGC upto the age of 65 years.

(vii) Professors for colleges

Posts of Professor will be created in UGC-recognized Autonomous Colleges in the ratio of 1:4:12 for Professors, Readers and Lecturers. The procedure of selection of Professor will be the same as that in the university. Other colleges of similar standard will be subsequently identified by the UGC as per the norms developed by the Commission in consultation with the Government.

(27)

-12-

(viii) Other terms & conditions of service of teachers

Other terms and conditions of service of teachers shall be notified by the UGC by way of Regulations incorporating the approved pay scales and other related conditions on the line of existing Scheme(s) with the approval of Government.

2. In the meantime, the revised scales of pay including arrears of salary may be given to teachers pending issue of the Regulations by the UGC.

3. The above scheme will be applicable to the teachers in all the Central Universities and Colleges thereunder and the Deemed to be Universities whose maintenance expenditure is met by the UGC. The implementation of the revised scales will be subject to the acceptance of all the conditions mentioned in this letter as well as the Regulations to be framed by the UGC in this behalf. The Universities may be advised to amend their statutes and ordinances in line with the Regulations within three months from the date of issue of this letter.

4. These orders are subject to the conditions as contained in para 4 of Ministry of Finance O.M. No.7(34)/E.III-A/97 dated 2.12.1997 on pay revision of employees of quasi-Government/autonomous organisations, statutory bodies, etc., set up and funded by the Central Government.

5. It is requested that necessary action may please be taken to revise the pay scales of teachers in the Central Universities and other institutions as per the conditions laid down in the instant letter and the Regulations to be framed by the UGC.

6. Anomalies, if any, in the implementation of the scheme may be brought to the notice of the Department of Education, Ministry of Human Resource Development for clarification."

letter Dated 6.11.1998

6 In continuation of this Ministry's letter of even number dated 27.7.1998 and in supersession of the letter dated 22.9.1998 on the subject mentioned above, I am directed to say that the matter relating to revision of pay scales of University and College teachers was further considered by the Government and it has been decided to make certain modifications in the Scheme already notified by the Government vide our letter dated 27.7.1998. The modifications made in the existing Scheme are as under:-

(28)

1. Pay Scales

i) The revised scales mentioned in Annexure-I of our letter dated 27.7.1998 shall be effective from 1.1.1996. Accordingly, the Annexure-II enclosed with the letter referred to may be treated as withdrawn.

ii) The fixation of pay of Lecturers (Selection Grade) Readers in the pre-revised scale of Rs.3700-125-4950-150-5700/- who were selected strictly in accordance with the rules and regulations framed by the UGC and who were in position as Lecturers (Selection Grade)/Readers as on 1.1.1996, will be made in a manner that they get their pay fixed at the minimum of Rs.14940/- in the revised scale of Rs.12000-420-18300 as and when they complete five years in the grade.

2. Readers & Professors

The pay of Readers and Professors who were in the pre-revised scales of Rs.3000-5000/- and Rs.4500-5700/- will be fixed at the appropriate stage of the revised scales of Rs.10000-325-15200/- and Rs.16400-450-20900-500-22400/- respectively as on 1.1.1996.

3. Pay scales of Controllers of Examination and Finance Officers

The Controllers of Examinations and the Finance Officers in the Universities will be given the same pay scale as applicable to the Registrars.

4. Age of Superannuation

The age of superannuation of 62 years indicated in para 1(vi) of our letter under reference shall also be applicable to Registrars, Librarians, Physical Education Personnel, Controllers of Examinations, Finance Officers and such other university employees who are being treated at par with the teachers and whose age of superannuation was 60 years.

5. Scheme for professional development incentives to Lecturers

The UGC will formulate a Scheme, in consultation with the Government, for giving professional development incentives in the form of cash allowances or assistance in kind or both to those Lecturers who register for M.Phil/Ph.D and whose pursuit of research is considered satisfactory by their guides.

6. Other terms & conditions

The other terms & conditions mentioned in our letter dated 27.7.1998, except as modified above, will remain the same."

(29)

10. It follows from the above that the directions of the Ministry of HRD communicated in its circulars of 27.7.98 and 6.11.98, so far as it relates to the conditions of Service of the faculty in University and colleges would have to be made applicable to the faculty in NDA Khadakvasla and the Army, Cadet College of IMA Dehradun except to the extent of any modification specifically provided for. The Ministry /UGC's package in this connection, does have a provision that the age of superannuation of the teaching staff be raised from the existing level of 60 years of age to that of 62. This has not been agreed to and the age of retirement on superannuation has been retained at 60, by the Ministry of Defence vide their letter dated 28.7.2000. As this decision is in consonance with the decision of the full bench of this Tribunal in the case of Ramesh Prasad Saxena & ORs Vs UOI in OA No. 451/97, we are endorsing the same. Remaining portion of the scheme deserves to be accepted fully.

11. The plea taken by the respondents is that they have not shut their doors on the HRD Min./UGC's recommendations, and that the proposals are in fact under active consideration by the Min. of Defence. We

are sorry we do not agree. Nearly five years have gone by since the recommendations of the 5th Central pay Commission have been adopted by almost all the departments under the Govt of India and more than two and half years since the Min. of HRDS decided on the revision of pay scales of the academic staff in the Universities and colleges the UGC pattern and given effect to them. Still the academic faculty attached to the Army Cadet College of Indian Military Academy, Dehradun and National Defence Academy, Khadakwasla are waiting for the good offices of the ~~Minis~~^{Min} of Defence to have the new and revised grades. That they would get the pay and allowances in the revised scale with full arrears is no answer for this delay, especially as nothing remains to be done once the HRD Ministry has laid down the parameters to be followed in this case. No further examination or consideration of the issue is called for and what is required is ^{key} immediate implementation. The academic faculty in these highly prestigious institutions have been waiting for too long for comfort. This wait has to end, in the interests of justice fair play and the academic excellence for we cannot have genuinely frustrated and disappointed academic staff in the premier institutions of the country creating the defenders of the country. It is in our interest as well.

12. In the above view of the matter, the application succeeds in so far as the pay scales of the academic staff of the Army Cadet College of the Indian Military academy on the basis of the circulars no. 7.1.22/97-UI dated 27.7.1998 and 6.11.1998, issued by the Ministry of Human Resources Development, Deptt. of

Education . . . Respondents are directed to complete the exercise within three months from the receipt of the copy of this order. We ardently hope, other similarly placed would not be made to rush to this tribunal for redressal of their grievances and that the same would be taken care of by the respondents.

13. The applicants' request for raising of their date of superannuation , is no longer a point of issue as its having been decided in the negative by the full bench of this Tribunal in Ramesh Prasad Saxena's OA No. 451/97. We respectfully follow it.

14. With the above observations we dispose of the OA. We also place on record our appreciation for the learned counsel on both sides - S/Sh. M K Gupta and K.C.D. Gangawani- for having ably assisted as in arriving at this decision.

Chintan S. Tamai
(Chintan S. Tamai)

Member (A)

Am Jagannath
(V. Rajagopala Reddy)

VC(J)

Patwal/