

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 1532/2000

M.A. NO. 1439/2001

NEW DELHI 15th Day of October 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member (A)

Shri Johnson R. Masih S/o Rustam Masih,
Retired Library Assistant from
National Gallery of Modern Art, Jaipur House,
Delhi.

.....Applicant.
(By Sh. S C Luthra, Advocate)

Versus

1. Union of India through
Secretary Min. of Human Resource & Development,
Dept. of Culture, Shashtri Bhawan, N. Delhi
2. The Director,
National Gallery of Modern Art,
Jaipur House, New Delhi

....Respondents

(By Sh. P.P. Ralhan, proxy for J B Mudgil Advocate)

O R D E R (ORAL)

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

Heard S/Shri S C Luthra and P P Ralhan,
counsel for the applicant and the respondents
respectively.

2. In this O.A. the applicant seeks the
grant of the pay scale of Rs. 1400 - 2600/- to him, as
the Library and Information Asstt. which he states has
been denied by the respondents by misinterpreting the
model recruitment rules.

3. The applicant who joined as a LDC in
National Gallery of Modern Art 17.3.1961 became a
Library Assistant on ad hoc basis on 12.8.1983 in the
pay scale of Rs. 425-700/- (revised to Rs. 1400 -
2300/-) and had fulfilled all the requirements in terms

-2-

of the Recruitment Rules . . . Applicant possessed Master's Degree in Ancient Indian History and Culture with a Diploma in Library Science. He worked as Library Asstt. on ad hoc basis from 12.8.83 to 15.4.88, and was reverted as UDC on 16.1.88 which he had become in the meanwhile on 27.3.85. Thereafter he was appointed as Library Asstt. on deputation on transfer on 3.7.90 in which post he was regularised from the said date, on the basis of Tribunal's order in OA No. 1608/92. He retired on Superannuation as Library Asstt. on 31.10.1994.

4. Shri Luthra, learned counsel for the applicant points out that following adoption of the recommendation of the Vth Central pay Commission, a review Committee was set up to examine the revised pay structure of the Library Staff, which was accepted by GOI's OM F No. 19(1)/IC/86 dated 24.7.90. The post of Library Asstt. was redesignated as Library Information Asstt. with qualification of Bachelor Degree in library Science for direct recruits and it was declared as promotion grade for Library Clerks. Model Recruitment Rules reiterated the qualification with the riders that relaxation could be given by SCC/Competent authority and that the requirement of qualifications would not apply to promotees. The revised pay scales introduced on 20.10.99, w.e.f. 24.7.90 was not given to the applicant. The applicant's representation dated 28.10.99 was rejected on 10.12.99, on the ground that he did not possess the necessary qualification. This was indeed surprising as he had worked as Library Asstt. from 12.8.83 to 15.4.88 and from 3.7.90 to his date of superannuation on 31.10.94.

-3-

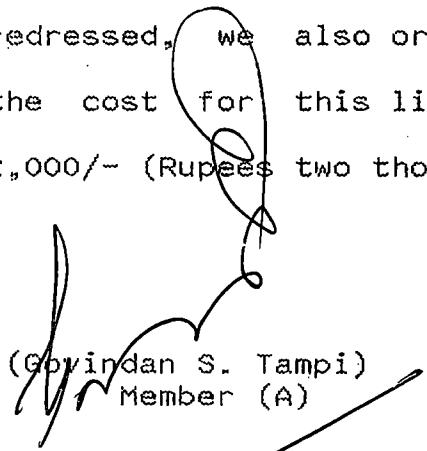
5. On behalf of the respondents Sh. P. P. Ralhan learned counsel points out that the provision for the relaxation contained in note below column 8 of the Model Recruitment Rules applied to SC/ST candidates and cannot be applied in the case of the applicant. He states that the applicant being not eligible and/or qualified cannot get the pay scale he is seeking. He reiterated the contention in the written pleas that the applicant was only directed to officiate on as ad hoc arrangement and the same did not confer any right on him or for any higher pay, which could be granted only to direct recruits. Respondents also state that the Review Committee had specifically indicated that those who did not possess the requisite qualification were not to be given the higher grade and if incumbent should continue in the existing scale on personal basis. Applicant does not have a case, according to the respondents.

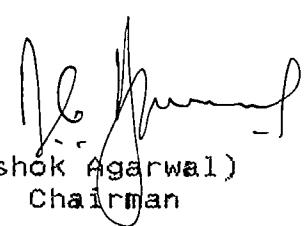
6. We have carefully considered the matter.

The perusal of the Model Recruitment Rules, drafted in pursuance of the scheme for revision of pay suggested by the Review Committee, while fixing the educational qualification makes it clear in Column 9 that for the post of Library and Information Asstt. age and educational qualifications, prescribed for the direct recruit are not applicable to the promotee. And admittedly the applicant is a promotee regularised so w.e.f. 3.7.90. Contention by the learned counsel for the respondents that the relaxation was available only for SC/ST candidates is incorrect as RRs do not make any such mention. The applicant did not require any

relaxation, as the RR themselves covered his case. The applicant who was holding the post of Library Asstt. on a regular basis w.e.f. 3.7.90 could not have been denied the pay scale applicable for the redesignated post of Library/Information Asstt. on the basis of the OM dated 24.7.90 , when the relevant Model Recruitment Rules provided that a promotee is not bound by the educational qualification/age which was applicable only for direct recruits. This would not also result in any undue drain on the exchequer as the applicant has already retired on 31.10.1994.

7. In the above view of the matter the application succeeds and is accordingly allowed. The respondents are directed to treat the applicant as having been placed in the scale of pay of Rs. 1400 - 2600/- w.e.f. 24.7.90, with all consequential benefits including arrears and relevant pensionary benefits. In the circumstances of the case that the applicant, a retired Government servant had to come to the Tribunal for getting his genuine grievances redressed, we also order the respondents to pay him the cost for this litigation , quantified at Rs. 2,000/- (Rupees two thousand only).


(Govindan S. Tampli)
Member (A)


(Ashok Agarwal)
Chairman

Patwal/