

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2127/2000
MA-890/2004

New Delhi this the 25th day of January, 2005.

Hon'ble Shri V.K. Majotra, Vice-Chairman(A)
Hon'ble Shri Shanker Raju, Member(J)

1. Smt. Raj Dulari Gupta,
30/1556, Naiwala, Karol Bagh,
Delhi-5.

2. Sh. Shyam Sunder Gautam,
A-24, Vishwa Apartments,
Plot No.46, Sector-9,
Rohini, Delhi-85.

Applicants

(through Sh. B.B. Raval, Advocate)

Versus

1. Lt. Governor of Delhi,
Govt. of NCT of Delhi,
Raj Niwas Marg,
New Delhi.

2. All India Council for Technical Education
through its Secretary,
Indra Gandhi Sports Complex,
I.P. Estate, New Delhi-2.

3. Chief Secretary,
Govt. of NCT of Delhi,
Secretariat, Near I.G. Stadium,
ITO, New Delhi.

4. Secretary-cum-Director,
Directorate of Training and Technical
Education, Muni Maya Ram Marg,
Pitam Pura, Delhi-34.

5. Jt. Director-cum-Dy. Secretary,

(57)

Directorate of Training and Technical Education,
Muni Maya Ram Marg,
Pitam Pura, Delhi-34.

6. Principal,
Pusa Polytechnic,
Pusa Road,
New Delhi.
7. Principal,
Guru Nanak Dev Polytechnic,
Pusa Road, New Delhi.
8. Principal,
College of Pharmacy,
Pushpa Vihar, Sector-3,
Delhi-17.

..... Respondents

(through Sh. Harvir Singh, Advocate)

Order (Oral)

Hon'ble Sh. Shanker Raju, Member(J)

Applicants impugn respondents orders dated 9.4.2001 and 12.12.2003 whereby their request for revision of the pay scale to Rs. 8000-13500/- has been rejected.

2. Applicants working as Librarians in the College of Pharmacy and in GND Polytechnic respectively possess qualification of MA B.Lib. and as per the recruitment rules they were entitled for the post of Librarian which provides qualification of BA and Diploma in Library Science.

3. In 1988 Madan Committee recommended staff structure of Polytechnics which was implemented. As a result, the entire staff like Demonstrators and Instructors were upgraded to the post of Lecturer.

4. In 1989, another Committee, namely, Dogra Committee recommended Librarians Teachers and PTI's of Engineering Institutions higher pay scale on completion of 8/16 years of service. This was implemented in respect of all except Librarians of Polytechnics.

5. As per the recommendations of Fifth Pay Commission, pay scale of the Librarian was revised by the Principal to Rs. 6500-10,500/- and Rs. 5000-9000/-. However, by a communication dated 21.10.1997 pay scales notified have been made available to library staff. This pay scale was revised to Rs. 500-9000/- and Rs. 6500-10,500/-. This was accepted by the Administration. Accordingly, vide notification by the Government of India dated 30.9.1997, the recommendations were given effect to instead of replacement scale from 10.1.1996. Tribunal in OA-3333/1992 on 31.8.1998 (Mohinder Singh Chaudhary Vs. Secretary & Ors) accorded the same pay scale to Physical Doctors i.e. P.T.I.

6. Applicants made a representation to revision of pay scale of Rs. 2200-4000/- and upgradation of post of Librarian to the pay scale of Rs.2200-4000 w.e.f. 1.4.1986.

7. By an order dated 24.5.1999, Principles have been directed to fix the pay scale of all Librarians in the scale of Rs. 5500-9000/- instead of Rs. 6500-10,500/-. As a result thereof applicants were refixed in the lower pay scale of Rs.5000-8000/-.

(59)

8. On filing OA-1335/1999, recovery has been stopped.

9. On 30.12.1999, the AICTE declared the status of Librarian as that of Lecturer with entitlement of pay scale of Rs. 8000-13,500/- w.e.f. 1.10.1996. In this light OA-1335/1999 was disposed of to follow the recommendations of AICTE. However, this request was rejected on 9.4.2001 and on 11.9.2000 pay of Librarians were refixed in the pay scale of Rs. 5500-9000/- which resulted in passing the order dated 9.10.1.2000 where recoveries have been ordered to be made.

10. On 21.2.2002 vide O.M. Central Government has considered recommendations of Fifth C.P.C. entitlement possessing minimum qualification of B.Lib. Their pay scales have been raised w.e.f. 1.10.1996 to Rs. 5500-9000/- by merging the post of Librarian Information Assistant and Sr. Library and Information Assistant. As the request of the applicants for grant of pay scale has been rejected on the ground that the applicants do not possess at least 55% marks in M. Lib and have not qualified requisite test conducted by UPSC, gives rise to the present O.A.

11. Learned counsel of the applicant stated that the aforesaid order has been passed on the basis of AICTE letter dated 15.3.2002 where possession of the qualifications were pre-requisite for grant of scale and, therefore, refixation in the pay scale of Rs. 8000-13,500/- was rejected. The AICTE has taken the following decision on 31.12.2003:-

"Please refer to your letter No. Lib./26/2003 dated 20.12.2003 regarding qualification & experience for existing incumbents on AICTE notification.

In this regard the Expert Committee has taken the following decision:

"The Committee had discussed the issue at length and it was decided that the teachers who have been recruited prior to 1.1.1996 in degree level technical institutions, should be governed by the existing Recruitment Rules (RR's). So, the committee recommends relaxation of qualification for such teachers to consider them for CAS in the grade of Lecturer (i.e. from Lecturer to senior grade & from senior grade to selection grade) and also for those who were promoted before the implementation of revised AICTE pay scales & service conditions. (From the date of AICTE notification to the date of implementation of the same by the concerned State Govt/Union Territory)".

The same also will be applicable for Librarians and PTIs.

Thanking you,"

Whereby teachers who have been recruited prior to 1.1.1996 would be governed by the existing recruitment rules with refixation and the same would also be extended to Librarians and PTIs. This fact according to the learned counsel of applicants has not been taken into consideration while considering their claim.

12. On the other hand, respondents' counsel relied upon the decision of the Apex Court in Sahib Ram Vs. State of Haryana & Ors. (1995 Suppl.(1)SCC 18) to contend that one who does not possess necessary educational qualification is not entitled for grant of refixation of pay scale.

13. Learned counsel for respondents further contended that recommendations of AICTE are only recommendatory in nature.

14. We have carefully considered the rival contentions of the parties and perused the material placed on record.

15. The decision cited is distinguishable, it rather supports the claim of the applicants.

(61)

16. Moreover, we find that while rejecting the claim of the applicant, the respondents have relied upon the recommendations of AICTE and as two qualifications were mandated for grant of refixation of pay scale, for non fulfillment, applicants' case was turned down.

17. However, we find that AICTE vide letter dated 30.12.2003 addressed to the General Secretary, Library Staff & PTI Welfare Association has conveyed its decision that teachers who have been recruited prior to 1.1.1996 would be governed by the existing recruitment rules and there would be a relaxation and the same has been mutatis mutandis made applicable to the Librarians as well. This common order has been passed on 30.12.2003 and is not in an individual case. The respondents having turned down the request of the applicants vide office order dated 12.12.2003 had no occasion to consider these recommendations.

18. It is very strange stand that the recommendations of AICTE are only recommendatory. This is more so when the earlier recommendations vide letter dated 15.3.2003 by AICTE laying down qualifications had not adhered to to reject the claim of the applicants. If AICTE had taken a decision, it would incumbent upon the respondents to have considered the same before taking a final decision.

19. AICTE is a party before us and had not contested, as such the authenticity of this letter cannot be disputed.

20. In the result, though we know our constraints in the matter of pay scale but on the other hand if some action has been taken to accord benefit to other

categories on the same principle applying different standards to the Librarians when there is a specific recommendation by the AICTE to extend the same to the Librarians as well. A differential treatment meted out which is not based on intelligible differentia and has no reasonable nexus with the objects sought to be achieved is an antithesis of Principle of equality enshrined under Article 14 of the Constitution of India..

21. In this view of the matter, we have no hesitation to come to the conclusion that the respondents have not adhered and considered the recommendation of AICTE letter dated 30.12.2003 which puts an end to the controversy. As prior to 1.1.1996 the Recruitment Rules do not stipulate passing of UGC test or any percentage as the applicants are qualified as per those rules amended criteria cannot be enforced.

22. In this view of the matter, we partly allow this OA and quash the impugned orders. The respondents are directed to consider, in the light of AICTE letter dated 30.12.2003, claim of the applicants for grant of pay scale of Rs. 8000-13,500/- and pass a detailed and speaking order. In the event the same is acceded to, applicants would be entitled to the benefits as per law. Till then, no recovery shall be effected from the applicants. This shall be done within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Vice-Chairman(A)

25.1.05