

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 2522/2000

New Delhi this the 3rd day of September, 2002.

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

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

K.C. Choudhary,
S/o Shri M.L. Choudhary,
working as Training and
Placement Officer,
Arya Bhat Polytechnic,
(Directorate of Training and
Technical Education),
G.T. Karnal Road,
Delhi-110033.

... Applicant.

(By Advocate Shri V.S.R. Krishna)

Versus

1. Govt. of NCT of Delhi
through Secretary/Director,
Directorate of Training and
Technical Education,
Munni Maya Ram Marg,
near T.V. Tower, Pitampura,
New Delhi-110034.
2. Secretary,
Finance Department of Govt. of
NCT of Delhi,
5, Alipur Road,
New Delhi-110007.
3. Union of India,
through Joint Educational
Advisor (Technical),
Ministry of Human Resource Development,
'C' Wing, Shastri Bhawan,
New Delhi.
4. The Member Secretary,
All India Council of Technical
Education,
Indira Gandhi Indoor Sports Complex,
I.P. Estate,
New Delhi. ... Respondents.

(By Advocate Shri Ajesh Luthra)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicant is aggrieved by what he terms as illegal action of the respondents in denying him the scale of Rs.3000-4500 and Rs.3700-5700 (pre-revised) (Rs.10000-15000 and Rs.12000-18000 (revised), respectively. He has impugned the order dated 18.4.2000 issued by the Govt. of NCT, Delhi rejecting his request to grant him the higher pay scale as Training and Placement Officer (TPO).

2. The brief relevant facts of the case are that the applicant was appointed as TPO in Pusa Polytechnic under the Govt. of NCT, Delhi Administration in April, 1979 and since then he has been continuously holding this post in the pay scale of Rs.2200-4000 (8000-13500 revised). He has relied on the recommendations of the 'Madan Committee' and 'Dogra Committee' which have examined the issue of provisions of the staffing pattern and structure of polytechnics and Engineering Colleges. According to him, the Madan Committee had recommended that the post of TPO should be equivalent to the grade of Head of Department (HOD). Shri V.S.R. Krishna, learned counsel has submitted that the applicant fulfils the qualifications and experience required for the grade of HOD/TPO and, therefore, there is no reason why he should be denied the scale of Rs.3000-4500. He had made a representation on 22.6.1998 and had also filed an earlier application in the Tribunal (OA 430/93) which was disposed of on 20.7.1999. The Tribunal had directed the respondents to consider the representation and review the applicant's case and pass a speaking order. Thereafter, the respondents have issued

the impugned order dated 18.4.2000. The relevant portion of the impugned order reads as follows:

"Whereas Madan Committee Report, interalia, stipulates that the posts of Training and Placement Officers have to be created depending upon the proximity to industry, its ability to involve industries close to it in its activities and so on. The Committee felt that it might not be necessary to create this position in each and every institution and that the need for this position in industrial institutions has to be carefully assessed by the Regional Committees taking into account all these aspects as well as the fact that the present Apprenticeship Act is being modified.

Whereas Madan Committee Report is only recommendatory and a post of Assistant Director Training and Placement already exists in higher pay scale to coordinate activity of Training and Placement.

Whereas the matter was considered by Finance Department of Government of Delhi which is vested with the powers to create posts.

Having considered the case in totality and taking into consideration the advice of Finance Department, it has been found not feasible to accede to the request of Sh.K.C.Chaudhary, Training and Placement Officer for grant of higher pay scale".

3. Shri Ajesh Luthra, learned counsel has also stressed on the reasons given that as there was already a post of Assistant Director, Training and Placement in the Union Territory of Delhi in the grade of Rs.10,000-15,200, there was no need to upgrade the pay scale of TPO, which post the applicant is holding in the grade of Rs. 8,000-13,500. Learned counsel has submitted that the Madan Committee itself has stated that there was no need to create the post of TPO in each and every institution and that the need for this post be assessed by Regional Committees, taking into account the proximity of industry and its ability to involve industries close to the institutions. He has also submitted that the recommendations have been duly considered by the Govt. of NCT, Delhi and these recommendations are also not mandatory and the appropriate

decisions have been arrived taking into account the local conditions. He has submitted that the AICTE has also prescribed higher qualification, that is Master's Degree in Engineering as an essential qualification for HOD post and the applicant does not possess a Master's Degree in Engineering. Accordingly, learned counsel has submitted that as the Madan Committee and Dogra Committee have recommended a Master's Degree in Engineering for the upgraded post which the applicant does not possess, the applicant has no claim for the higher pay scale claimed by him. He has, therefore, prayed that the O.A. may be dismissed.

4. On the other hand, Shri V.S.R.Krishna, learned counsel has very vehemently submitted that the applicant possesses the educational and technical qualifications mentioned in the OA, including AMIE (Mechanical), which are the requisite qualifications as prescribed for the post of HOD in the Recruitment Rules, copy placed at Annexure A-3. He has also referred to a letter from Respondent No.3/ Govt.of India, Ministry of Human Resource Development dated 25.9.1987 and, in particular Note-4. This Note provides that the existing incumbents of the post of TPO may be adjusted in the grade of HOD on their fulfilling the prescribed qualifications. In pursuance of this letter, Respondent No.1/ Govt.of NCT of Delhi issued the letter dated 13.7.1988 regarding reorganisation of the staffing pattern in boys and women's polytechnics under the Training and Technical Education on the recommendations of the Madan Committee set up by Govt.of India. Learned counsel for the applicant has submitted that by this letter, it has been clearly stated

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that the sanction of the Lt.Governor of Delhi for creation of 87 posts, in the pay scale noted against each, has been granted with effect from the date these posts were filled in upto 28.2.1989. In boy's polytechnic, 1 post of TPO has been shown in the pay scale of Rs.3000-4500 which is the ~~11.10.88~~ claim of the applicant. In another letter dated 10.7.1988 addressed to the Principals of various Polytechnics, including the Polytechnic where the applicant is working, the respondents have stated that as per the revised staff structure based on Madan Committee, the post of TPO is to be upgraded to the level of HOD and existing incumbent in that post is required to be upgraded provided they fulfil the requirement of HOD post, in order to consider the eligibility. The letter relied upon by the applicant is the letter dated 9.10.1991 from Respondent No.1 wherein it has been stated, inter alia, that the sanction of the Lt. Governor of Delhi has been given for creation of 79 posts in the pay scale noted against ~~against~~ each, which includes two posts of TPO in the pay-scale of Rs.3000-4500. However, the applicant was never placed in the scale of Rs.3000-4500 although he was the only candidate at that time in the zone of consideration. The applicant has averred in the OA that he found that his salary is being disbursed against the order dated 13.7.1988 in the scale of Rs 3000-4500 but paid in the lower scale of Rs.2200-4000 which, however, stands unexplained by the respondents. Another document that he relies upon is the recommendation of the Dogra Committee, i.e. Norms and Standards for Polytechnics. In Para 6.1.6 of this document, it has been stated that the TPO and Workshop Superintendent will be equal to the cadre to HOD. Shri V.S.R.Krishna, learned counsel has submitted that as the applicant fulfils the educational qualifications for HOD, he has to be placed in the

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pay scale equivalent to that of HOD which has been wrongfully denied to him by the respondents. In the light of these letters issued by the respondents themselves, learned counsel urges that the applicant who is a TPO should be given the pay scale equivalent to the post of HOD, that is, Rs.3000-4500 and the impugned orders should be quashed and set aside. He has submitted that in terms of the order of the Tribunal passed in OA 430/1993, the respondents have not passed a proper order taking into account the aforesaid letters issued by them and the relevant rules and regulations but have acted in a mechanical manner and without application of mind and they have, in particular, ignored the approval of the Lt.Governor of Delhi for creation of posts and placing the post of TPO in the pay scale of Rs. 300-4500. Shri V.S.R.Krishna, learned counsel has, therefore, submitted that after the sanction has been conveyed with the approval of the Lt.Governor of Delhi, the same cannot be cancelled by anybody who is not competent to do so, as has been done in the impugned order dated 18.4.2000. Learned counsel for the applicant has relied on the judgement of the Tribunal (Calcutta Bench) in Mohd.Mansoor Vs. Union of India & Ors. (OA 412/1994) dated 23.3.1998. By this order, the applicant who was holding the post of Workshop Supdt. on regular basis was ordered to be given the higher pay scale of Rs. 3700-5700.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. Under the relevant Recruitment Rules annexed by the applicant himself (Annexure A-3), the essential

qualification for HOD (Automobile Engineering) is that a person should have at least ^a second class degree in Automobile Engineering or Mechanical Engineering from a recognised University or equivalent. Apart from the assertions of the learned counsel for the applicant verbally that the qualifications possessed by the applicant qualifications required for HOD are equivalent to the post under the rules, nothing has been placed on record to substantiate it and, therefore, we are not in a position to allow or reject this averment. It will, therefore, be open to the applicant to produce such documents as he deems fit before the respondents to substantiate this.

however, other
 7. We find force in the submissions made by Shri V.S.R.Krishna, learned counsel. In the impugned order dated 18.4.2000, no reference has been made to the aforesaid letters issued by the respondents themselves while conveying the sanction for creation/upgradation of certain posts, including the post of TPO under the Rules to the scale of Rs.3000-4500, which is the scale given to the HOD, keeping in view the recommendations of the Madan Committee and Dogra Committee. The impugned letter only refers to the Madan recommendations of the Committee and no reference at all has been made to the sanction accorded by the Lt.Governor of Delhi for creation of the posts. The additional affidavit on behalf of Respondent No.1/Govt.of NCT of Delhi also talks of creation of TPO posts depending on the proximity to industry, its ability to involve the industries close to it in its activities and so on. Even though the recommendations of the Committee may not be mandatory and it was upto the State Govt.to accept these recommendations or not, however, if , as stated in the above referred to letters, respondent No.1 in some of the letters have themselves referred to the fact that the

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sanction of the Lt.Governor of Delhi has been obtained for creation of the posts, including the post of TPO in the scale of Rs.3000-4500, they ought to have shown how these sanctions were later modified/ cancelled by the same authority. In this view of the matter, the impugned letter is incomplete and it cannot be stated that it is in terms of the directions of the Tribunal in OA 430/1993. In other words, the respondents seem to have lost sight of the letters sanctioning the posts in higher pay scale as averred by the applicant which have not been looked into or dealt with by them. In this view of the matter, the impugned order dated 18.4.2000 is quashed and set aside.

8. In the facts and circumstances of the case, the O.A. is disposed of with a further direction to Respondents 1 and 2 to consider the claim of the applicant afresh and also take into account the aforesaid letters issued by them conveying the sanction of the Lt.Governor of Delhi for creation of the posts. They shall also give him an opportunity of personal hearing. They shall consider his claim that he holds the qualifications which are required for HOD post. If that is so, he shall be entitled for grant of the pay and allowances in the pay scale of Rs.3000-4500 (pre-revised) and Rs.3700-5700 (pre-revised) from the due dates in accordance with the recommendations of the Madan Committee and Dogra Committee. In case the respondents are rejecting the applicant's claims, they shall pass a reasoned and speaking order together with the relevant rules and instructions they rely upon. This shall be done within one month from the date of receipt of a copy of this order, with intimation to the applicant. No order as to costs.

(Govindan S. Tampli)
Member (A)

'SRD'

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)