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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA 2707/2000

New Delhi, this the day of ~~5th~~ ^{April} ~~February~~, 2002.

Shri Govindan S. Tampi, Member(A)
Shri Shanker Raju, Member(J)

Prof. U.C.Jindal,
R/o EA 383, Maya Enclave,
Hari Nagar, Delhi-64.
(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India
through its Lt. Governor,
Govt. of NCT of Delhi,
Raj Niwas Marg, Delhi.
 2. Chief Secretary,
GNCT of Delhi
5, Sham Nath Marg,
Delhi.
 3. Principal Secretary(Technical Education),
Directorate of Training and Technical Education,
GNCT, Muni Maya Ram Marg,
Pritampura,
 4. Principal
Delhi College of Engg.
Bawana Road, Rohini,
New Delhi. ...Respondents.
- (By Advocate: Sh Mohit Madan proxy counsel of
Mrs. Avnish Ahlawat)

O R D E R

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

Reliefs sought for by Prof. U.C.Jindal, the applicant in this OA are the grant of higher pay scale of Rs.16,400/- to Rs.22,400/- w.e.f. 1.1.96 and enhancement of retirement age to 62 years.

2. Heard Shri Arun Bhardwaj, learned counsel for the applicant and Shri Mohit Madan, proxy counsel of Mrs. Avnish Ahlawat counsel for the respondents.

3. The applicant who joined as a Lecturer in Delhi College of Engg. affiliated to Delhi University, became a Professor on 1.1.84 and was declared entitled to the pay scale of Rs.4500/= 7300/- from 1.1.86, as per recommendations of AICTE. He became a permanent Professor on 11.9.89 and Head of the

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Deptt. of Mech. Engg. in the University for three years. He was fixed in the scale of pay of Rs.14,300-22,400/- w.e.f. 1.1.96, on the basis of Vth Pay Commission recommendations under annexure to UGC's letter No. 7.3-1/94(PS) dated 24.12.98. This annexure was withdrawn subsequently and the Professors placed in the scale of Rs.16400-22400/-. Further on 14.1.99, Ministry of HRD raised the retirement age of University teachers to 62 years. This package of higher pay and higher retirement age, was duly adopted Netaji Subhash Institute of Technology (NSIT), another college, also affiliated to the Delhi University. Applicant requested for ⁴above on 23.10.2000, followed by reminders on 20.11.2000 and 4.12.2000 but the same had not been responded. Hence, this OA.

3. The grounds raised by the applicant are that the respondents' reluctance to grant him the higher pay scale of Rs.16,400-22,400/- w.e.f. 1.1.96 was incorrect, arbitrary and malafide and against the Articles 14, 16 and 22 of the Constitution, as Professors of Delhi University were getting the same grade and he had been recognised a permanent Professor as far back as on 1.1.84. Besides as AICTE has recommended 62 years as the retirement age for the professors, there was no justification for its being denied to him, as he was in effect a Professor in the University. The above pleas were forcefully urged during the oral submissions by Shri Arun Bhardwaj, learned counsel for the applicant, who averred that the Tribunal should intervene in the matter and render justice to the applicant.

4. In the reply filed on behalf of the respondents by Smt. Avninsh Ahlawat, it is pointed out that the grant of scales as well as determinations of age/date of

(3)

superannuation are matters within the exclusive domain of the administration and the Courts and Tribunals should not interfere in them. The applicant who was designated as Professor w.e.f. 1.1.84, under the Merit Promotion Scheme, is not to be treated at par with Professors either of in the University of Delhi or NSIT. The applicant amongst others, ^{through} ~~through~~ their Association, ^{NAM} agitating for the grant of scales of pay given to Group 'A' officers which was accepted by Government of NCT, Delhi, by granting the scales of pay in terms with recommendations of Vth Pay Commission. Delhi College of Engineering was a Govt Institution, affiliated to Delhi University only for academic purposes and not for purposes of scales of pay of the teaching faculty. The applicant was given the post of Professor purely on a personal basis and he was never appointed or promoted against the regular post of Professor. Pay of the teaching staff of the concerned institution was revised w.e.f. 1.1.86, on receipt of GNCT's approval to implement Govt of India's decision to revise their pay scales on the basis of recommendation made by the Dogra Committee and AICTE. Those who are recognised as Professors of Delhi University are designated as Heads of Deptts by rotation but the same does not entitle them to claim any seniority/financial benefits similar to those granted to Professors in the University. They are known as University Heads but this ^{designation} ~~does~~ not entitle them to claim any parity in the pay or service condition with those in the University and the claims made by the applicant to the contrary are without any basis. Respondents further indicate that the recommendations of AICTE are only directory and not mandatory and as the teachers have already been given pay scales like those given to Group 'A' Officers in Delhi Administration in terms of

(29)

(4)

Vth Pay Commission nothing further can be given to them. Further, as the Delhi College of Engg. is not in receipt of any grant from UGC, the Rules framed by the UGC are not applicable to the said institution. Further, the decision taken by NSIT to grant the benefits in terms of AICTE's recommendations cannot be cited in support of the applicant's case. It is for the Govt. of NCT to accept, reject or modify a recommendation and once such a decision is taken all concerned have to abide by the same. During the oral submissions, Shri Mohit Madan, learned counsel for the respondents ably and fervently ^{argued} that as the applicant's having been placed in a category altogether different vis-a-vis the University Teachers, he cannot at all seek any parity in scales of pay or service conditions with them. The attempt by the instant applicant to get around the restriction placed on him, as an employee of the Govt. of NCT Delhi by this OA should not at all be permitted, and the OA should be dismissed, he argues.

5. We have carefully considered the matter. Two points call for determination in this OA, i.e. the grant of higher scale of Rs.16,400/- to 22,400/- as Professor as well as the raising of the age of superannuation to 62 years. It is admitted that the applicant had already become a full time Professor w.e.f. 1.1.84 and was drawing his salary in the pre-revised pay scale of Rs.4,500-7,300/-. In terms of letter dated 9.10.98 the replacement scale for the above stood at Rs.14,300/- to Rs.22,400/- on 24.12.98. However UGC has recommended the revised/replacement scale of Rs.16,400/- Rs.22,400/- for Professors earlier drawing pay of Rs.4,500/- Rs.7,500/-. This has been made applicable to Delhi University Teachers. It is this scale of pay that the applicant is seeking, as he has been granted permanent

(5)

recognition as a Teacher of the University (Professor) w.e.f. 1.1.84 in terms of University's letter no. CD-III/Recog/89 dated 11.9.89. He was also designated as Head of the Deptt. of Mechanical Engg. in the University w.e.f. 8.9.94 for a terms of three years. That being the case the respondents' argument plea that the applicant was granted the designation of Professor on Merit Promotion Scheme as purely personal to him and that he was not appointed/promoted against any regular post of Professor is beyond comprehension. When the University has recognised him as their Teacher, there is no reason as to why the benefits granted to the University teachers should not flow to him even if it be on personal basis. Respondents cannot take shelter behind the specious plea that the applicant did not ^{have} a status ^{of or like} equivalent to that of a University Teacher, as the University had itself granted the status. Grant of the scale of pay of the University Professor to this is only the logical corollary and the same cannot be denied in law. To permit and endorse such a plea would be to support ^{an} _{il} individous distinction, which goes against all canons of law and justice. This is not a case where the applicant is seeking parity with the university teachers in pay and service conditions from an unequal or lesser situation but one where the applicant who has been recognised as a University Teacher (Professor on permanent basis) by the University is seeking the just recompense for his work. We note that the respondents have during the oral submissions of their learned counsel Smt. Ahlawat & Shri Madan fervently pleaded that the Tribunal did not at all have the jurisdiction to go into the matter of pay scales. Shri Madan had in fact referred to the decision of the Supreme Court in the case of UOI & Others Vs P.K. Dey as well as

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that of the Tribunal OA No.3282 of 2001 filed by Shri Arun Kumar & Others, decided on 11.12.2001, in support of his proposition that the Court/Tribunal shall steer clear of fields meant for expert bodies like Pay Commission. We fully appreciate the same and we are keenly aware of the parameters within which we have to perform. We also recall the decision of the Supreme Court in the case of **State of Madhya Pradesh Vs P.V.Hariharan** laying down similar law. However, the point for determination in this case is different and we are definitely not treading on turfs which are beyond own writ. In this OA, we are not deciding on the aspect of the parity of posts vis-a-vis principle of equal pay for equal work but are only observing that those who have been declared as University Teachers and thus granted parity in status by the University are entitled to get the scale of pay meant for the University teachers. Denial of the same would be neither legal or just. We therefore uphold the applicant's contention.

6. The second request of the applicant relates to the raising of the age of superannuation to 62 years. In this matter, we note that the said issue has already been settled by the decision of the Full Bench at Madras Bench OA 451/97 filed by **Ramesh Prasad Saxena & Others Vs. UOI** which has been endorsed and reiterated on 21.12.2000 by the Principal Bench, while disposing of OA 1487/2000 filed by **Dr. M. Querishi & Another**. One of us (Govindan S.Tampi) was a member of that Bench. It has been held that in the above decisions that aspect relating to retirement age was a matter of policy best left to the Executive. We respectfully agree with the above findings and adopt the same for deciding this issue in this OA as well.

7. In the above view of the matter, the appeal succeeds,

(7)

but partially and is accordingly disposed of. The respondents are directed to treat the applicant as having become entitled for being placed in the higher pay scale of Rs.16400/- to Rs.22,400/- w.e.f. 1.1.96 as the University Teacher (Professor) with all consequential monetary benefits of pay and arrears. Direction for this shall have to be issued by the respondents within two months from the date of receipt of a copy of this order. The applicant's request for enhancement of age of retirement on superannuation from 60 to 62 years is devoid of any merit and is accordingly rejected. No costs.

S. Raju
(Shanker Raju)
Member(J)

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Govindan S. Tampi
Member(A)