

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.29/2000

New Delhi, this the 16th day of April, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Jitendra Singh, S/O Shri K.P.Singh
Presently posted as Visual Aid Artist
Office of Regional Directorate of
Apprentice-ship Training, Udyognagar
Kanpur.

...Applicant

(By Advocate: Shri M.K.Gupta)

VERSUS

1. Union of India through the Secretary
Ministry of Labour DGET Shram Shakti
Bhawan, New Delhi
2. The Director of Apprenticeship Training
Government of India, Ministry of Labour
DGET, Shram Shakti Bhawan, 2/4, Rafi Marg,
New Delhi.
3. The Regional Director of Apprenticeship
Training, Udyognagar, Kanpur.
4. The Director General/General Secretary,
Govt. of India, Ministry of Labour,
DGET, Shram Shakti Bhawan, 2/4 Rafi Marg.
New Delhi.

...Respondents.

(By Advocate: Shri Rajinder Nischal)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):

Aggrieved by the respondents' letter dated 17.8.1992 by which his representation for upgradation has been rejected, the applicant has filed the present OA which has been contested by the respondents who have filed a reply. Thereafter, a rejoinder has been filed by the applicant followed by an additional affidavit by the respondents.

2. We have heard the learned counsel on either side and have perused the material placed on record.

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3. The facts of the case briefly stated are that vide respondents' letter dated 13.3.1974, posts of Visual Aid Artist (VAA), Lay Out Artist (LOA), etc. were created in the pay scale of Rs.320-530/- . The rules governing recruitment to the posts of VAA and LOA placed on record provide for substantially similar entry level qualifications. The applicant was appointed as VAA w.e.f. 10.6.1974 in the aforesaid scale. The respondent No.2 vide order dated 1.7.1974 revised the pay scale of certain instructional staff from the scale of pay Rs.320-530/- to Rs. 350-700/- w.e.f. 27.5.1970. Thereupon, the respondent No.4 requested respondent No.2 to revise the pay scale of VAA also as the revised pay scales laid down vide order dated 1.7.1974 had created anomalies. The request made was not accepted. The pay scale of Rs.320-530/- applicable to VAAs etc. was, however, later revised to Rs.560-760/- w.e.f. 13.3.1974 while the Senior Technical Assistants etc. were placed in the still higher scale of Rs.650-960/- . Once again representations were filed not only by the VAAs but also by the LOAs. These representations were also rejected by the respondent No.2 on 17.8.1978. Later, one Shri S.S. Bhargava, LOA made a further representation which resulted in the grant of the higher pay scale of Rs.650-960/- to LOAs w.e.f. 13.3.1974. The relevant order is dated 17.11.1980. Thus, the LOAs were put on par with STAs etc. Since the VAAs enjoyed a status equivalent to that of LOAs in all matters including in terms of recruitment rules, the applicant filed yet one more representation on 24.11.1980 and the respondent No.3 was good enough to recommend his case for bringing the

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pay scale available to the VAAs on par with the revised pay scale of Rs.650-960/- given to the LOAs. Since the original raise in the pay scale available to STAs etc. was given on the basis that the STAs etc. were members of instructional staff and the applicant also used to do instructional work, he had every hope that the pay scale given to the VAAs will be put on par with the LOAs. In support of his claim that he was engaged in instructional work, the applicant has placed on record copy of a time table in respect of instructional work (Annexure A-14) which goes to show that the applicant too was engaged in giving instructions to the trainees. Later, the respondent No.3 himself sent a letter dated 31.3.1983 recommending the grant of pay parity between the VAAs and the LOAs. The applicant duly followed up the aforesaid recommendation through reminders. Respondent No.1 thereupon informed that the aforesaid matter was still under consideration and the same was also being referred to the 4th CPC. Ultimately, without considering the matter in an objective and fair manner, the recommendations of the 4th CPC were mechanically implemented by giving the pay scale of Rs.2000-3200/- to the LOAs whereas the applicant, being a VAA, was placed in the pay scale of Rs.1600-2660/-. However, thereafter again, the respondent No.3 while forwarding the applicant's representation on 26.4.1990 clearly stated that disparity had continued to persist on account of the revision of the pay scale applicable to the LOAs. The same respondent further informed the Additional Director of Training that the VAAs were also utilized for instructional and teaching work as and when required.

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Thereupon, the Director of Training vide his letter of 31.7.1991 required the respondent No.3 to intimate the financial implications of the proposal for upgradation of the pay scale of VAA. This was duly replied to by the respondent No.3 who again pointed out in his letter of 27.8.1991 that the applicant, a VAA, did impart instructions and his services were utilized for conducting classes/practical demonstration. A few courses in respect of which the applicant had conducted the classes/practical demonstration were also listed therein by the respondent No.3. Since the financial implications of upgradation had not been intimated, the respondent No.2 vide his letter of 14/17.2.1992 asked the respondent No.3 again to convey the financial implications informing him that further action to revise the pay scale of the post of VAA will be taken on receipt of the said information. The respondent No.3 again addressed the Additional Director of Training vide his letter of 23.3.1992 (Annexure A-24) informing him in clear enough terms that the duties and responsibilities of the post of VAA included instructional work. Only a little later in May, 1992, the respondent No.1 conveyed to the respondent No.3 that the Integrated Finance Division had not agreed to upgrade the pay scale of VAA and wanted some more information in support of the proposal. The respondent No.2 went to the extent of pointing out the precise information needed in support of the proposal and called for the desired information on an immediate basis (Annexure A-26). According to the applicant, no reply was sent thereafter and that is why

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the proposal in question has been rejected by the respondents by passing the impugned order dated 17.8.1992 which is, on the face of it, a non-speaking order.

4. The learned counsel appearing on behalf of the respondents has raised mainly two issues. One is that the post of VAA does not have instructional content. Secondly, the entry level qualifications in respect of the posts of VAA and LOA are materially different. Thus, according to him, there is no justification for upgrading the pay scale of VAA to the level of LOA.

5. The learned counsel appearing for the applicant has on the other hand argued that instructional content is very much present in the duties and responsibilities shouldered by the applicant and in support of this, he has referred to the correspondence exchanged on the subject between the respondent No.3 and the other respondents. We have considered this matter in the light of the correspondence placed on record and to which a reference has already briefly been made above and find that it would be incorrect to say that the duties and responsibilities of the post of VAA do not have instructional content. Insofar as the recruitment rules are concerned, we find that there is near total similarity bordering on identity between the entry level qualifications inasmuch as the essential qualification for both the aforesaid posts is matriculation or equivalent. Further, insofar as the technical qualification is concerned, the rules concerning VAA provide for a diploma in Commercial Arts with at least 2

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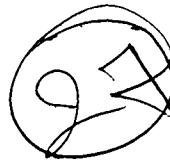
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years' experience in the field, whereas the technical qualification for the post of LOA includes diploma in Commercial Arts with at least two years' experience in Lay Out Design. It is possible to argue that whereas in the case of VAA, the experience required is the field experience, in the case of LOA, the experience required is in respect of Lay Out Design and, therefore, there is no similarity/identity between the technical qualifications laid down for the said posts in the respective recruitment rules. We do not agree. On the other hand, we are inclined to accept the plea advanced by the learned counsel for the applicant that on account of the aforesaid thin distinction in the matter of experience, it is not possible to argue successfully that the technical qualifications for the two posts are materially different.

6. We also find that there was parity in the pay scales attached to the posts of VAA and LOA in the beginning and this would have continued but for a revision made by the respondents in the early stages based on the instructional content in the duties and responsibilities attached to certain posts. No other basis is discoverable in the pleadings of the parties. That being so, on being repeatedly told by the respondent No.3 that the duties and responsibilities attached to the post of VAA also had instructional content, the respondents should have revised the pay scale of VAAs so as to bring the same on par with LOAs. We have in this context also noted that whereas at one point of time in the beginning, the representation for upgradation of pay

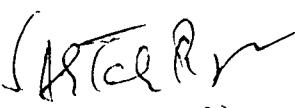
scale made by the LOAs was also rejected, the same was, after reconsideration and on a further representation by the incumbents, accepted and the pay scale attached to the post of LOA was upgraded. Insofar as the proposal to upgrade the pay scale of VAAs is concerned, the respondent No.3 made several positive recommendations and in this context, we note that had the information sought by the respondent No.3 vide his letter dated 17.2.1992 (Annexure A-28) been supplied, he (respondent No.3) might well have succeeded in securing higher pay scale for the VAAs.

7. On the whole, the circumstances of the present case are such as lead us to the conclusion that, but for the indifference on the part of the respondents, ample justification has remained available all along for pay upgradation of VAAs on par with LOAs. The initial upgradation in favour of the so-called instructional staff from Rs.320-530/-, the same pay as was applicable to the VAAs, to Rs.350-700/- came by an order dated 1.7.1974 (Annexure A-6) passed by the respondents in exercise of the executive authority, and not in consequence of the recommendations made by any expert body. The pay scale of the post of LOA was also upgraded by the Govt. in exercise of executive authority and without the advice of an expert body. By exercising executive authority, the respondents could as well, and there was, as stated, every justification for doing so, revise the pay grade of VAAs based on the concept of instructional content in the duties and responsibilities attached to the post of VAA. This was not done and we

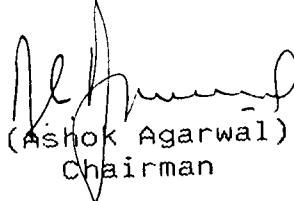


are not convinced that there was no justification for doing so. We have also noted that the impugned order dated 17.8.1992 is a totally non-speaking order and the same, in the peculiar circumstances revealed in the OA and the pleadings of the parties, deserves to be quashed and set aside.

3. For all the reasons mentioned in the foregoing paragraphs, the OA succeeds and is allowed. The impugned order dated 17.8.1992 is quashed and set aside. The applicant will be entitled to consequential benefits keeping in view the fact that he joined service on 10.6.1974. No costs.


(S.A.T. Rizvi)

Member (A)


(Ashok Agarwal)
Chairman

/sunil/