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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

....

O.A.NO. 335/88

DATE OF DECISION: 7th Feb 92.

SH. AMRIK SINGH

.....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

.....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

FOR THE APPLICANT : SH. R.L. SETHI, COUNSEL

FOR THE RESPONDENTS : SH. N.S. MEHTA, SR. STANDING COUNSEL

J U D G E M E N T

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985 (hereafter "The Act"), the applicant who is aggrieved with the fixation of his pay, on his promotion as Assistant w.e.f. 22.3.1984, from the ex-cadre post of Librarian, has prayed for the following reliefs:-

(i) that the impugned orders be set aside;

(ii) that the pay of the applicant be fixed in accordance with FR 22-C as Assistant with reference to pay drawn in the Ex-cadre post of Librarian from the date of his promotion viz. 22.3.1984; and

(iii) that applicant be allowed consequential relief of arrears of pay with retrospective effect from the date these became due viz. 22.3.1984.

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(7) (4)

2. The applicant's case briefly is, that he joined with the respondents, as a Lower Division Clerk in the scale of Rs.110-180/-, on 29.7.1964, and was appointed as a Librarian on 15.4.1972 in the scale of Rs.150-320/-, which was revised to Rs.380-640/-, w.e.f. 1.1.1973. The post of Librarian was cadred with that of L.D.C. till 19.8.1978. He continued to work as Librarian till 22.3.1984. In between, he was confirmed as U.D.C. w.e.f. 7.8.1982 and later as an Assistant w.e.f. 22.3.1984. His pay as Librarian in the scale of Rs. 380-640/-, on the date of his promotion as Assistant, was Rs. 545/-, whereas it was fixed at Rs.425/- P.M., as Assistant in the scale of Rs.425-700/- P.M. The applicant made representations/appeal to the higher authorities concerned against this loss in his pay, but the same were turned down, vide impugned orders Annexures A-1 to A-3 and hence this O.A. The applicant seeks fixation of his pay under FR 22-C, to make good the resultant reduction in his pay, on his so-called promotion to the post of Assistant.

3. The respondents have opposed the applicant's case, and have also filed counter to the O.A., wherein they had stated that the applicant did not possess the requisite qualifications for the post of Librarian but in the exigencies of work, he was given a chance on purely temporary and ad hoc basis to work as Librarian in the scale of Rs.150-320/-. He was promoted as Assistant w.e.f. 6.12.1982 (F.N.),

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but, in the absence of regular Librarian, he continued to work as Librarian till 21.3.1984, and as such, was allowed to draw the pay of Librarian upto 21.3.1984, in the scale of Rs.380-640/-. On his promotion as Assistant w.e.f. 6.12.1982, which was in his line of promotion, after fixing his pay notionally in the cadre of U.D.C., his pay as Assistant was fixed as Rs.425/-P.M. w.e.f. 6.12.1982 (F.N.). It was further stated that as on the date of promotion as officiating Assistant, he was holding an ex-cadre post of Librarian on ad hoc basis, his pay had to be fixed on the basis of pay drawn by him in the cadre post, which he would have held but for his holding an ex-cadre post. The fixation of pay was thus in accordance with the Rules, and the applicant's holding the post of Librarian on ad hoc basis did not bestow on him any right to claim a regular appointment to the post of Librarian.

4. In the rejoinder filed by the applicant, his submissions in the O.A. were reiterated, stating that having never been confirmed to the post of L.D.C., the question of his holding lien to the post of L.D.C. did not arise, and the applicant having continuously worked as Librarian which was not an ex-cadre post at the time, the applicant was appointed as Librarian, which he continued to hold for nearly 12 years, he had acquired a right to hold that post.

5. We have also heard the learned counsel for the parties. The learned counsel for the applicant while broadly

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reiterating the points referred to above, in support of applicant's case, pleaded that in the peculiar facts and circumstances of the case, something has to be done to save the applicant from the loss in his pay on his so-called promotion as Assistant, may be by grant of the difference in the pay as personal pay to him, to be absorbed in future increments. The learned counsel for the respondents opposed even these submissions made by the learned counsel for the applicant. He also cited a Full Bench decision dt. 7.11.1989 in O.A. 553/88 (R.P. Upadhyay Vs. U.O.I.), reproduced at page 210 of Full Bench Judgements of the Central Administrative Tribunals, Vol.II, wherein exactly the same proposition was involved, and the Full Bench came to a decision that in such a case, the government servant concerned was not entitled to the protection of his pay in the ex-cadre post.

6. We have given our careful consideration to the facts and circumstances of the case, together with the rival contentions, as briefly discussed above. In view of the Full Bench judgement *ibid*, and applying the ratio of the same in the instant case, we are not in a position to grant any of the reliefs asked for, by the applicant, in the present O.A., which is accordingly dismissed, with no orders as to costs.

T.S. Oberoi 7.2.92
(T.S. OBEROI)
MEMBER(J)