



**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1995/2019

This the 22nd day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

V.K. Verma

(Retired Head of Department (Electrical Engineering))

S/o late Sh. O.P. Verma

R/o B-702, Apex Green Valley Apartment

Sector-9, Vaishali, Ghaziabad

(since died during the pendency of the instant OA)

Last posting of the Applicant as

Officiating Principal in GB Pant, Polytechnic

Through his legal heirs/representatives

1. Ms. Anita Verma (aged around 63 years)

W/o late Sh. V.K. Verma

R/o B-702, Apex Green Valley Apartment

Sector 9, Vaishali, Ghaziabad.

2. Mr. Anurag Verma (aged around 41 years)

S/o late Sh. V.K. Verma

R/o E-268, 2nd floor, East of Kailash, Delhi.

Since Applicant (i.e. Sh.V.K. Verma) died during the
pendency of the instant OA.

...Applicants

(By Advocate: Sh. Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi

Through its Chief Secretary

Delhi Sachivalaya, Players Building

IP Estate, New Delhi-2.



2. Secretary (Technical Education)/Principal Secretary
Department of Training and Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi-88.
3. Director
Department of Training and Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi-88.
4. His Excellency Lt. Governor
GNCT of Delhi
Raj Bhawan, Shamnath Marg
New Delhi.
5. UPSC
Through its Secretary
Dholpur House, Shahjahan Road
New Delhi. ... Respondents

(through Sh. Amit Anand)

ORDER (Oral)

Justice L. Narasimha Reddy:

The applicant was selected and appointed as Lecturer (Electrical Engineering) Group – A on 16.07.1985 in the Department of Training and Technical Education (DTTE), Govt. of NCT of Delhi. Thereafter, he was extended the Selection Grade through order dated 28.07.2011 w.e.f. 16.07.2001, in accordance with the extant scheme and in compliance with the orders passed by this Tribunal. He has also been making untiring efforts to be designated as Head



of the Department. Litigation ensued in this behalf and ultimately, he was designated as Head of Office (HoD) through orders dated 14.07.2017 but w.e.f. January, 2001. He retired from service on attaining the age of superannuation on 28.02.2019.

2. On retirement of the applicant, the respondents initiated certain proceedings in the context of fixation of the pensionary benefits. The respondents passed order dated 26.02.2019 stating that the applicant is under obligation to refund a sum of Rs.47,65,729/-, being the excess amount received on account of the refixation of his salary. That was preceded by a Show Cause Notice dated 13.09.2018 and an order of refixation dated 04.01.2019. The respondents have also passed an order dated 14.09.2017 on a representation filed by the applicant. The applicant filed this OA challenging all the four orders referred to above.

3. The applicant stated that the post of HoD remained vacant and though he was otherwise eligible to be appointed as HoD, the benefit was given to him on 10.12.2013. He further submits that impugned order was passed as a vindictive measure and to penalize him for pursuing the remedies at various levels.



4. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that being the Drawing Officer himself, the applicant fixed his emoluments and on a re-examination of the entire issue on the eve of his retirement, it emerged that a sum of Rs.47,65,729/- was drawn by him in excess and accordingly, the impugned proceedings were initiated.

5. During the pendency of the OA, the applicant passed away on 16.12.2020 and his legal representatives were brought on record.

6. We heard Shri Sourabh Ahuja, learned counsel for applicant and Shri Amit Anand, learned counsel for respondents in detail.

7. It is not in dispute that the applicant became eligible to be extended the benefit of Selection Grade, on completion of the stipulated length of service. An order in that behalf was passed on 28.07.2011, extending the benefit with effect from 16.07.2001. It is true that in his anxiety if not ambition, the applicant initiated unwarranted litigation, claiming the status of HoD. That ultimately resulted in an order dated 14.07.2017 extending him the benefit of the HoD with effect from January 2001.

8. Things would have been substantially different, had it been a case where the position or post of HoD is allowed an



independent scale of pay. Not only from the record, but also from answer given by the learned counsel for respondents, to our specific question, it emerges that the post of HoD did not carry any extra emoluments whatever. Therefore, no recovery could have been ordered on account of the applicant holding the post of HoD for any particular period without any specific order.

9. The other ground which is specific to service, for ordering recovery or passing the impugned order is that a lecturer does not become eligible for Selection Grade, if he is holding the post of HoD. Here again, there is no specific rule as such, but the shelter is taken under an observation made by the Hon'ble Supreme Court. The discussion therein was to the effect that once the Selection Grade is extended to an employee in lieu of any promotion, he cannot claim benefit of similar nature, in whatever form. The respondents contend that since HoD is equivalent to selection grade, the applicant was not entitled for both the benefits at one at the same time.

10. Two aspects need to be clarified here. The first is that, much before the claim of the applicant for the status of the HoD was accepted, he was placed by the respondents on their own accord, in the Selection Grade. The second is that, the occasion to treat the HoD as a substitute for



Selection Grade would have arisen, if only the status carried any additional emoluments which are equal to that of selection grade. That not having taken place, we do not find any basis for the respondents in deducting or withholding a sum of Rs.47,65,729/- from the applicant.

11. We make it clear that these observations are being made in the typical facts and circumstances of this case. By no measure, it can be treated as a proposition of law.

12. We, therefore, allow the OA and set aside the impugned orders. The legal representatives of the applicant shall be paid the retiral benefits of the applicant, which are otherwise due to him, in the normal course of retirement, without any deductions, within two months from the date of receipt of a copy of this order. If the amount is not paid within two months, it will carry interest at 6% till the date of the payment. The papers for sanction of family pension to the wife of the applicant shall also be processed, without any further delay.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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