



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

O.A. No.1119/2019

Tuesday, this the 13th day of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. Amira Nisar
Lecturer (Electrical Engineering)
w/o Sh Mohd. Owes Siddiqui
r/o F-23, GBPIT
Residential Complex
Okhla, Phase III
Delhi – 110 020

Aged around 44 years
Present posted at:
GB Pant Institute of Technology
Okhla

...Applicant

(By Advocate : Mr. Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Sachivalaya, Players Building
IP Estate, New Delhi – 2
2. Principal Secretary/Secretary
(Technical Education)
Directorate of Training & Technical Education,
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
3. Director
Directorate of Training & Technical Education,
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88



4. Deputy Director (E-I)
Directorate of Training & Technical Education,
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88

...Respondents

(By Advocate : Mr. H. A. Khan)

ORDER (Oral)

Mr. Justice L. Narasimha Reddy:

The applicant joined the service as Lecturer (Electrical Engineering) in Border Security Force (BSF) Polytechnic 31.03.2000. Thereafter, she was selected and appointed by the UPSC as Senior Lecturer in the Department of Training and Technical Education (DTTE), Govt. of NCT of Delhi on 28.09.2010. There exists a Career Advancement Scheme (CAS) for Lecturers. On completion of 6 years service, a Lecturer is conferred with the status of Senior Lecturer, with corresponding monetary benefits. The applicant was granted status of Senior Lecturer on completion of six years of service in the Delhi Administration. Her contention is that she was entitled to be extended the benefit much earlier, had the service rendered in BSF Polytechnic been taken into account.

2. Earlier, she approached the Tribunal by filing O.A. No. 236/2018, seeking certain reliefs. The O.A. was disposed of on 18.01.2018 directing the respondents to take a decision on the representation submitted by the applicant dated 31.12.2012. In compliance with the same, the respondents passed an order



dated 09.08.2018. It was mentioned that the qualification prescribed by the BSF Polytechnic for appointment to the post of Lecturer in Polytechnic is not in accordance with the guidelines issued by the AICTE and unless the applicant possessed those qualifications at the time of her appointment, she cannot be extended the benefits of CAS. This O.A. is filed challenging the order dated 09.08.2018.

3. The applicant contends that the qualifications, as pointed out in the impugned order, are only about the Graduation and Aptitude Test, and such a requirement for the post of Lecturer was in force between 1996 and 1999, whereas her appointment was in the year 2000. Another contention is that even under the Delhi Administration, the said qualification is only desirable and not a compulsory requirement. Reliance is placed upon certain judgments of this Tribunal.

4. On behalf of the respondents, a detailed counter affidavit is filed. According to them, the occasion to count the service rendered by the applicant in BSF Polytechnic would arise, if only she possessed the qualification, in terms of AICTE for appointment. They reiterated the contents of the impugned order.



5. We heard Mr. Sourabh Ahuja, learned counsel for applicant and Mr. H.A. Khan, learned counsel for respondents, at length, through video conferencing.

6. The applicant seeks the benefit of CAS to the post of Senior Lecturer. The controversy is about the date from which she is entitled for the benefit. It is not in dispute that the benefit is extendable on completion of six years of service. The respondents counted her service from the date she joined DTTU, and extended the benefits. It appears that the applicant has ten years of service to her credit in BSF Polytechnic. For counting of service rendered in BSF Polytechnic, the applicant is required to possess the qualifications, as stipulated by the AICTE.

7. Two points are mentioned in the impugned order. They were analyzed thoroughly and a detailed order was passed as under:-

“A. (i) At the time of her relieving from the BSF Polytechnic on 26-9-2010 she was in the Pay Band of Rs.15600-39100 + AGP of Rs.5400/- which is entry level pay scale for the post of Lecturer (with BEB Tech qualification) as per AICTE Norms dated 05-03-2010 and not in senior Scale which reportedly was granted to her w.e.f. 01-01-2007. Even otherwise, essential Qualifications prescribed for the post of Lecturer (Electrical Engg.) in the advertisement dated 8-14 May 1999, by the BSF Polytechnic were “B.E. (Electrical) in 1st class from a recognized University”. Whereas, as per the AICTE guidelines 20th September, 1989, essential qualifications prescribed for the post of lecturer in polytechnic were -



“(i) 1st class bachelor degree in appropriate branch of Engineering/Technology

OR

M.Sc. 1st class in appropriate branch of study for teaching posts in Humanities and Science

(ii) Qualifying in an All India Examination (such as GATE) or equivalent

(iii) Selected through the prescribed selection procedure”

Further, Para 2 (v) of CAS guidelines dated Sep. 10, 1993 state that “.....qualifications laid down in AICTE circular dated 20-09-1989 shall be applicable to new entrants recruited after 20-09-1989”.

Thus the qualification prescribed for the post of lecturer by the BSF polytechnic in the advertisement were lower than that prescribed by the AICTE norms 1989 for new entrants/recruit, applicable before the issue of AICTE Notification dated 30-12-1999 which did not prescribe GATE as essential qualification.

Thus the previous appointment and subsequent service of the applicant upto 26.09.2010 itself is not in consonance with the norms prescribed by AICTE Regulation which also provide for Career Advancement Scheme and as such that period of her engagement with BSF Polytechnic (Private) cannot be counted for the purpose.

(ii) After her joining in DTTE as a Lecturer (Electrical Engg.) in entry level pay scale BSF Polytechnic also paid an amount of Rs.1,67,902/- on account of encashment of her Gratuity and Rs.6172/- towards leave encashment which is not in consonance with the procedure adopted in case of submission of technical resignation as claimed by the applicant.”

8. The respondents proceeded on the assumption that the qualifications stipulated by the AICTE, at the relevant point of time are those mentioned in part ‘A’ above. The fact is that



under the norms stipulated by the AICTE, P.G. qualification was one of the alternatives. Secondly, the respondents omitted to note that the applicant was appointed in BSF Polytechnic on 31.03.2000, at a time when the AICTE norms were not in place. To be precise, the requirement, as mentioned above, is on the strength of the circulars dated 20.09.1989 and 20.12.1999. Therefore, the view taken by the respondents cannot be countenanced.

9. We, therefore, allow the OA by setting aside the impugned order and directing the respondents to count the service of the applicant rendered by her in BSF Polytechnic, for the purpose of extending the benefit of senior grade. However, she shall not be entitled to any arrears, and the accrual of the benefits shall be retrospective in nature. The exercise in this regard shall be completed within two months from the date of receipt of a copy of this order.

10. There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member (A) Chairman

October 13, 2020
 /sunil/jyoti/mbt/vb/dsn