

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.832/1991

New Delhi, the 5th day of May 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

Dr.G.D.Goel
153, Indra Nagar
Dehradun - 248 006.

...Applicant

(By Advocate: Shri D.R.Gupta)

Versus

Union of India through

1. The Secretary
Ministry of Defence
New Delhi.
2. Director General of Military Training
(General Staff Branch)
Army Headquarters, D.H.Q.
P.O.New Delhi-110 011. ...Respondents

(By Advocate: Shri N.S.Mehta)

JUDGEMENT (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant Dr G.D. Goel, a post-graduate in mathematics, was appointed as Lecuterer in Mathematics in the Army Cadet College, Pune on 15th July 1970. He was promoted as a Reader in Mathematics on 24th October 1981. By order dated 20.1.1983, Presidential sanction was accorded for revision of pay scales of civilian academic staff at the National Defence Academy, Khadakvasala and Army Cadet College Wing, Indian Military Academy, Dehradun. According to this government order, the scale of pay of Reader was to be revised from Rs.1100-50-1600 to Rs. 1200-50-1300-60-1900. Para 3 of this order reads as follows:

"The revised scales mentioned in para 1 above will be admissible to such of the academic staff who fulfil the qualifications and experience, etc. as

prescribed by the University Grants Commission for similar posts in the University/Colleges."

2. As the applicant did not fulfil the qualifications required for the post of Reader as he didn't have a doctorate at that time, he was not found eligible for the revised pay scale. But a subsequent order dated 6th April 1985 (Annexure R-IV) was issued which also contained the Presidential sanction for grant of revised pay scales in the case of Professors, Readers and Lecturers who were in service though they did not fulfil all the requisite qualifications and experience as prescribed by the University Grants Commission. It was stipulated in that order that the above order would take effect from 25th March 1985 and that Readers and Professors would be allowed to draw revised pay scales w.e.f. the date the Screening Committee would meet and adjudge their suitability. This order was subsequently modified by another order dated 30th June 1987 (Annexure A-III) which, inter-alia, provided as follows:

" (i) The UGC pay scales will be made applicable with effect from 1.1.1983 to Lecturers who had earlier been sanctioned these scales w.e.f. 25.3.1985. Lecturers who were recruited in relaxation of the qualifications prescribed at the time of their recruitment will earn increments in the UGC scales of pay, only after acquiring the said qualification.

(ii)(a) Ministry of Defence will set up a Screening Committee to review the cases of Readers and Professors for granting them the UGC scales of pay w.e.f. 1.1.1983. The Screening Committee is being constituted separately.

(b) Readers/Professors who were in service on 1.1.83 but have since retired will be granted UGC scales of pay w.e.f. 1.1.83; and

(c) Readers/Professors who retire from service

before the completion of work by the Screening Committee will be eligible for grant of UGC scales, promotions and increments in the UGC scales of pay w.e.f. 1.1.1983."

3. A committee met to consider the suitability of Readers including the applicant, but the applicant was not found suitable by the committee for award of the revised pay scale because of an adverse entry in his ACR of 1986. Thereafter the applicant was again considered by the Committee and was granted revised scale of pay w.e.f. 6.9.1990. Aggreived by this, the applicant made a representation to the Secretary, Ministry of Defence on 24th July & 4th October 1990. In reply to the representation, ultimately the applicant was told by the impugned order dated 29.1.1991 that the Screening Committee did not find him suitable for grant of revised pay scale w.e.f. 1.1.1983 and that after consultation with the Ministry of Defence, the applicant has been granted revised pay scale w.e.f. 6.9.1990 as approved by the Screening Committee. Aggreived by this order and honestly believing the applicant is entiled for the revised pay scale w.e.f. 1.1.1983, the applicant has filed this application praying that the respondents may be directed to grant him revised pay scale of Rs. 1200-1900 w.e.f. 1.1.83 instead of 6.9.1990, with all the consequential benefits.
4. The stand taken by the respondents in their reply is that though the Screeing Committee considered the case of the applicant also, the Committee did not find him suitable for grant of revised pay scale w.e.f. 1.1.1983 on account of the adverse remarks in his ACR of 1986 as averred in para 8 of the reply. They have further contended that the Committee again considered the case of the applicant and he has been granted revised pay w.e.f. 6.9.1990.

5. The question that arises from the pleadings extracted above is "whether the Screening Committee could take into account the ACR of the applicant pertaining to the year 1986 for determining his suitability for grant of revised pay scale w.e.f. 1.1.1983 ?". The law on this point is ~~point~~ well settled. The Hon'ble Supreme Court has in the case of CBDT Vs. Dr. Tripathi reported in 1990 (2) SLJ 70 held that Departmental Promotion Committee cannot take into account ACR of the incumbent for future years for the purpose of considering his promotion with effect from an earlier date. This principle in regard to promotion equally applies to a case of grant of revised scale of pay with retrospective effect. The Committee whenever it met had to consider the suitability of the applicant for grant of revised pay scale w.e.f. 1.1.1983. While doing so, the committee should consider ACR of the applicant only upto that date and not with ~~effect~~ ^{regards to} from any date thereafter. In the case of the applicant, the adverse entry in his ACR which stood in the way of the Committee clearing the case of the applicant for grant of revised pay w.e.f. 1.1.1983 related to the year 1986. Therefore, we are of the considered view that the Committee has committed a grave error in his case.

6. What emerges from the above is that the Committee has not considered the case of the applicant in the right perspective. Therefore, we are of the considered view that the respondents have to be directed to convene a review Screening Committee for considering the case of the applicant for grant of revised pay scale w.e.f. 1.1.1983 without taking into account any entry in the ACR after that date. Hence, the application is disposed of with the following directions:

- (i) The Respondents are directed to have the case of the applicant for grant of revised pay scale of Rs. 1200-1900 w.e.f. 1.1.83 considered

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by a Review Screening Committee within a period of 3 months from the date of receipt of a copy of this order;

(ii) The Committee shall consider the case of the applicant without reference to any adverse remarks in the ACR of 1986. In other words, the Committee so convened shall take into account the service records of the applicant only upto 1.1.1983 and not any other date beyond for adjudging the suitability for grant of revised pay scale.

(iii) If the Committee in such consideration clears the case of the applicant for grant of revised pay scale w.e.f. 1.1.83, the applicant shall be given the revised pay scale w.e.f. 1.1.83 and the arrears of pay and allowances flowing therefrom shall also be paid within a period of 3 months thereafter.

No costs.



(K. Muthukumar)
Member (A)



(A.V. Haridasan)
Vice Chairman (J)

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