

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2322/2004

New Delhi, this the 14th day of March, 2005

Hon'ble Shri Shanker Raju, Member(J)

Hon'ble Shri S.K.Naik, Member(A)

Vivek Chander Sharma
DG 981, Sarojini Nagar
New Delhi-23

Applicant

(Shri Yogesh Sharma. Advocate)

versus

Union of India, through

1. Secretary
Dept. of Elementary Education & Literacy
Ministry of Human Resource Development
Shastri Bhavan, New Delhi
2. Deputy Secretary
Dept. of Elementary Education & Literacy
Ministry of Human Resource Development
Shastri Bhavan, New Delhi
3. Director of Adult Education
Ministry of Human Resource Development
Jamnagar House, New Delhi

Respondents

(Shri T.C.Gupta with Shri Hari Nath, Advocate)

ORDER

Shri S.K. Naik

The applicant had earlier filed OA No.3113/2003 seeking a declaration that he was entitled to the scale of pay of Rs.10000-15200 with consequential benefits under the Assured Career Progression Scheme. Since the representation had then been pending before the respondents, the said OA had been disposed off with a direction to the respondents to take a conscious decision with respect to the claim of the applicant in accordance with the Rules and Instructions. Consequently, respondents have passed order dated 19.7.2004 holding that the request of the applicant for upgradation in the pay scale of Rs.10000-15200 cannot be acceded to. Aggrieved once again, the applicant is before us seeking a declaration that the order dated 12.11.2001 fixing the pay of the applicant in the scale of Rs.7450-11500 is illegal and arbitrary and also to direct the respondents to fix his pay in the pay scale of Rs.10000-15200 under the ACP Scheme with all consequential benefits.

2. Learned counsel for the applicant has contended that the applicant was holding the post of Hindi Officer in the pay scale of Rs.6500-10500 in the Directorate of Adult Education, Respondent No.3 ever since his appointment on 22.7.1986. He had completed 12 years of regular service as Hindi Officer in the year 1998 and therefore he was entitled for the grant of first financial upgradation under the ACP Scheme. While he has been granted the benefit of ACP Scheme

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vide order dated 12.11.2001 issued by the respondents, the same has not been given to him in the pay scale which he deserves i.e. Rs.10000-15200 but only in the scale of Rs.7450-11500. Learned counsel has contended that the applicant is entitled to the scale of Rs.10000-15200 under the ACP Scheme because there are a number of other subordinate offices of the government of India where Hindi Officers similarly situated had been granted the financial upgradation in the scale of Rs.10000-15200. In this respect he has named a few departments viz. Directorate of Income Tax (RSP & RR), Office of the JS(Trg) & CAO, Ministry of Defence, Office of the CGDA, Employees Provident Fund Organization, Employees State Insurance Corporation and CSIR. He has therefore contended that it is a clear-cut case of discrimination with the applicant.

3. Contending further that the respondents have granted the pay scale of Rs.7450-11500 to the applicant on the ground that the post which he was holding was an isolated one, the counsel has argued that the post is not an **isolated** one as it has a feeder post of Hindi Translator. Even though it does not have a promotional grade in the hierarchy due to functional needs, he contends that there is a well-defined hierarchy in other Ministries/Departments with regard to this post and the respondents ought to have taken this fact into consideration while considering his case.

4. Respondents have contested the OA. Learned counsel for the respondents has justified the grant of pay scale of Rs.7450-11500 under the ACP Scheme to the applicant and contended that the post of Hindi officer in the respondents Directorate is an isolated one. Referring to the clarification with regard to the isolated post, the counsel has explained that as has been clarified by the DoPT, an **isolated** post is a **stand-alone** post having neither a feeder grade nor promotional grade. In the case in hand, there is a single post of Hindi Officer, which does not have a promotional grade nor has it any feeder cadre. The post of Hindi Translator, which the counsel for the applicant has argued to be a feeder grade, is in fact not so. The post of Hindi Translator is two steps below the scale of Hindi Officer. R/Rules for the post of Hindi Officer does not provide for promotion from the post of Hindi Translator to that of Hindi Officer. Thus, it is totally wrong on the part of the learned counsel for the applicant to contend that there is a feeder cadre/grade. That being the situation, upgradation order has been rightly passed, the counsel contends.

5. With regard to the instances of Hindi Officers being granted higher upgradation in other Ministries/Departments cited by the applicant, the learned counsel for the respondents has referred to the written reply filed by them in this regard explaining the provision in each one of the case, in which they have stated that in none of the cases there is any similarity with that of the applicant,

Dr. Anil

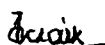
inasmuch as either they had a feeder grade or promotional grade available in the departments and therefore it cannot be held to be an isolated post or stand alone post, as is the case of the applicant. Under the circumstances, he has contended that the order passed by the respondents is fully justified.


6. We have heard the learned counsel for the parties and have also perused the records of the case.

7. The counsel for the applicant has firstly based his claim on the basis of similarly situated Hindi Officers in other Ministries/Departments having been granted higher scale of Rs.10000-15200 under the ACP Scheme. This has been factually rebutted by the respondents inasmuch as they have shown it to us that in those cases either there was a feeder grade or promotional grade and they were not stand alone posts as the case herein. Further, we find that the post of Hindi Translator is NOT the feeder grade to the post of Hindi Officer. In fact R/Rules nowhere state that Hindi Translator in the Department would be entitled for promotion to the post of Hindi Officer. On the contrary, a Hindi Translator working in the same Directorate would have also to apply for being considered for appointment to the post of Hindi Officer and, thus, it cannot be said that there is a feeder grade. Thus it has to be held that the post of Hindi Officer in the Respondents Directorate is an isolated/stand alone post. In that view of the matter, respondents are right in fixing the pay of the applicant in the scale of Rs.7450-11500.

8. Learned counsel for the applicant has referred to the order of Guwahati Bench of the Tribunal in OA No.26/2004 dated 14.5.2004. However we find that the same would not help the applicant in any way as therein the dispute was with regard to the recovery of financial upgradation wrongly allowed by the respondents. The Tribunal had held that while the decision of the respondents to grant the scale of Assistant and not that of Superintendent was valid, no recovery could be made from the applicant on account of wrong fixation. This is not applicable to the facts of the present case.

9. Under the circumstances, we find no merit in this OA and the same is accordingly dismissed, with no order to costs.


(S.K. Naik)
Member(J)


(Shanker Raju)
Member(J)

/gtv/