

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2479/2004

New Delhi, this the 12th day of April, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.K. Misra, Member (A)

S.C. Bhalla
S/o Late Shri K.L. Bhalla
R/o 37D, Navyug Adarsh Apartments
F-Block, Vikaspuri, New Delhi - 110 018.

...Applicant

(By Advocate Shri L.R. Khatana)

V E R S U S

1. Union of India: through
Secretary to the Govt. of India
Ministry of Culture, Shastri Bhawan
New Delhi - 110 001.
2. Secretary to the Govt. of India
Department of Personnel & Training
North Block, New Delhi - 110 001.

...Respondents

(None present)

O R D E R (ORAL)

Mr. Justice V.S. Aggarwal,

The applicant Shri S.C. Bhalla joined as Librarian Gr. I on 28.10.1978. According to him, he was promoted as Assistant Director on 22.2.96. His grievance is that he is entitled to the second financial upgradation in accordance with the Assured Career Progression Scheme, on completion of 24 years of service, from 27.10.2002. By virtue of the present application, he seeks that he is entitled to the grade of Rs.14,300-18,300/- which is the next promotion in the hierarchy and that the order of the respondents granting him the scale of Rs.12,000-16,500/-, therefore, is not valid. The impugned order in this regard reads: -

"Consequent upon the introduction of Assured Career Progression Scheme for the Central Government Civilian Employees as contained in the Department of Personnel and Training's O.M. No.35034/1/97-Estt. (D) dated the 9th August, 1999, the competent authority in this Ministry has approved the grant of first and final financial upgradation on completion of 24 years of regular service in respect of:-

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- (i) Shri S.C. Bhalla
- (ii) Shri B.M. Mallapa

LIOs belonging to the Department of Culture, upgrading their present scale of pay of Rs.10,000-325-15,200 to Rs. 12,000-375-16,500 with effect from 28.10.2002 and 28.4.2004 respectively.

The above financial upgradation shall be purely personal to the officers and shall have no relevance to their seniority.

The pay of the above officers shall be fixed under the provisions of FR 22 (1) (a) (1) subject to the minimum financial benefit of Rs. 100/- as per the Department of Personnel & Training O.M.No.1/6/97-Pay - 1 dated 5th July 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay fixation benefit shall accrue at the time of regular promotion.

The above upgradation will be further subject to the terms and conditions stipulated in the Department of Personnel & Training's O.M. No.350341/1/97-Estt.(1) dated 09.08.1999 and their subsequent O.M. of even number dated 10.02.2000.

Hindi Version follows.

(Anju Bhalla)

Under Secretary to the Government of India"

2. The application has been contested. The basic fact about the promotion of the applicant is not disputed. The respondents contend that the applicant has been granted the second financial upgradation in the scale of Rs.12,000-16,500/- on completion of 24 years of service as per standard hierarchy of library staff. The post of Sr. Librarian and Information Officer forms a part of the hierarchy and carries the revised scale of Rs.12,000-16,500/-. Therefore, even if the post of Sr. Librarian and Information Officer is not a part of the hierarchy in the Central Secretariat Library, the Librarian and Information Officer in the scale of Rs.10,000-15,200/- may be eligible for direct promotion. The applicant cannot get the said upgradation. The respondents rely upon the clarification No.56 of the Office Memorandum of 18.7.2001.

3. The applicant, as we have referred to in the facts above, is an Assistant Director, which has now been designated as Librarian and Information Officer. The next promotion is to the post of Director.

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Necessarily, the applicant would be entitled to the scale of Director after he is granted the Assured Career Progression Scheme benefit.

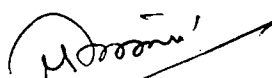
4. This question need not detain us any further because the Delhi High Court in the case of **Union of India v. Bhagwati Prasad & Ors.** (Writ Petition (Civil) No. 297/2005) had considered the said controversy as to whether the person is entitled to the scale in the next hierarchy or not. The answer was given that the scale would be in the next hierarchy and not any other scale. Relying upon the said decision of the Delhi High Court, the Full Bench of this Tribunal in OA 557/2004 decided on 16.2.2005 has considered clarification No.56 by the Department of Personnel & Training and had answered the same as under: -


"Clarification No.56 issued by the Department of Personnel & Training on 18.7.2001 will have the effect of rendering condition no. 7 of the ACP Scheme as redundant. It cannot take away the right that has accrued to the Government servant in his existing hierarchy with respect to the grant of the scale to be granted by way of financial upgradation."

This puts an end to the challenge offered by the respondents. The respondents, therefore, cannot rely upon Clarification No.56 of the Department of Personnel & Training because it cannot take away the right that has accrued to the applicant to get the next promotional scale which is of the Director. The post of Director carries the scale of Rs.14,300-18,300/-.

5. Taking stock of the abovesaid facts, particularly the decision of the Delhi High Court and the Full Bench of this Tribunal, the O.A. necessarily must be allowed.

6. Resultantly, we quash the impugned order and direct that the applicant would be entitled to the second financial upgradation in the scale of Rs.14,300-18,300/- with effect from the date he had completed 24 years of service. Consequential benefits should accrue to him.


(M.K. Misra)
Member (A)


(V.S. Aggarwal)
Chairman

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