

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL
BENCH**

Original Application No.1728/2004

New Delhi, this the 6th day of April, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)**

Smt. Shanta Jindal
W/o Dr. U.C. Jindal
R/o EA - 383, Maya Enclave Hari Nagar
New Delhi - 110 064. ... Applicant

(By Advocate: Sh. Ashwani Bhardwaj)

Versus

1. The Lt. Governor
Govt. of NCT of Delhi
Raj Niwas, Delhi.
2. The Govt. of NCT of Delhi
Through Chief Secretary
Secretariat, I.P. Estate
New Delhi.
3. The Joint Secretary (TTE)
Directorate of Training & Technical Education
Govt. of NCT of Delhi
Muni Maya Ram Marg
Pitampura, Delhi - 110 088.
4. The Principal
College of Art
20, Tilak Marg, New Delhi.
Respondents ...

(By Advocate: Sh. George Paracken)

ORDER

By Mr. Justice V.S. Aggarwal:

Applicant was appointed as Librarian in the College of Art. It is affiliated to Delhi University but is under the administrative control of Govt. of National Capital Territory



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of Delhi (in short 'Govt. of NCT of Delhi'). Pursuant to the recommendations of the Third Central Pay Commission, the pay scale of the applicant was revised to Rs.425-700. After the recommendations of the Fourth Central Pay Commission, the pay scale of the applicant was revised to Rs.1400-2300. The applicant contends that Librarians of other Colleges of Delhi University were placed in the pay scale of Rs.2200-4000 as per the Fourth Central Pay Commission's recommendations.

2. The applicant further contends that on 21.10.1997, the Joint Director of Education, Govt. of NCT of Delhi passed an order stating that the recommendations of the Fifth Central Pay Commission had been implemented by the Central Government and the revised scales had been notified vide Office Memorandum of 30.9.1997. It was further stated that Part 'A' of the said notification contained the replacement scales for the posts for which there were no specific recommendations mentioned in Parts 'B' and 'C' of the said notification. On 22.1.1998, the Joint Director of Education, Govt. of NCT of Delhi passed an order providing that the Librarians of the Schools of the Govt. of NCT of Delhi were to be given the pay scale as recommended in Part 'B' of the said notification. In pursuance thereto, the Librarians of the Schools of the Delhi Government were placed in the scale of Rs.5500-9000 whereas similarly situated persons, according



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to the applicant, i.e., Librarians of the Delhi University College, were given the scale of Rs.8000-13500/-.

3. The grievance of the applicant is that she continued to be in the scale of Rs.4500-7000 without any rationale. According to her, this decision is arbitrary.

4. The applicant had filed OA 2120/2002, which was decided on 09.01.2002. This Tribunal dismissed the application holding:

“6. The question for consideration before us is whether the post of Librarian held by the applicant can be equated with the Librarians working in the schools and colleges of the Govt. of NCT of Delhi for the purpose of grant of pay scale. The Supreme Court in the case of Union of India & Ors. Vs. P.V.Hariharan & Ors., JT 1997 (3) SC 569 has held that “the Tribunal should realize that interfering with the prescribed pay scales is a serious matter as pay scales are fixed by the Government on the recommendations of the Pay Commission. There is no justification for interfering with the pay scales.” Moreover, the pay scales are granted after taking into consideration various factors like job description, responsibilities, educational qualifications, cadre strength and promotional avenues. The Tribunal cannot go into all these aspects for grant of higher pay scale. This is the function of the expert body like Pay Commission.”

5. Against the said decision, the applicant filed Civil Writ Petition No.4791/2002. It was decided by the Delhi High Court on 09.08.2002 with the following order:

“A Writ Petition involving similar question being CWP No.1960/2001 was disposed of vide our Order dated 18th May,



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2002. Accordingly, this Writ Petition also stands disposed of in similar terms."

6. Since the said CWP was disposed of in terms of the decision in CWP No.1960/2001 on 18.5.2002 in the matter of **SMT. SUDHA BEDI v. UNION OF INDIA & ORS.,** it would be necessary to find out the decision therein. The Delhi University therein had been directed:

"16. In that view of the matter, we are of the opinion that the impugned judgment of the Tribunal cannot be sustained, which is set aside accordingly. This writ petition is allowed.

17. The respondents are thereby directed to make the necessary job of evaluation of the 'Assistant Librarian' in College of Arts. Vis-à-vis 'Assistant Librarian' in the Polytechnic and take an appropriate decision. Such decision must be taken at an early date and not later than three months from the date of the communication of this order."

7. In pursuance of the directions of the Delhi High Court vide the impugned order of 12.12.2003, the job performed by the applicant was evaluated and it was recorded:

"4. Whereas the job performed by Mrs. Shanta Jindal has been evaluated in the light of directions given by the Hon'ble High Court of Delhi in C.W.P. No.4791/2002 vide orders dated 9.8.2002. Mrs. Shanta Jindal has already been working as Librarian and sought upgradation of her pay scale at par with the post of Librarian in colleges affiliated to University of Delhi in the pay scale of Rs.8000-13500/- and the Govt. is of the view that the job requirements for the post

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of Librarian in degree level Technical Institutions have already been examined as per norms laid down by AICTE for degree level Institutions.

5. Whereas A.I.C.T.E. vide their Notification No.F.1-65/NEC/98-99 dated 15.3.2000 recommended the pay scale of Rs.8000-13500/- for the post of Librarian in Degree level technical institutions and has also, inter-alia, laid down the following minimum qualifications for the post of college librarian:-

- (i) Qualification in the national-level test conducted for the purpose by the U.G.C. or any other agency approved by the U.G.C.
- (ii) Master's Degree in Library Science Information Science Documentation or an equivalent professional degree with at least 55% of the marks or its equivalent CGPA and consistently good academic record, computerization of Library.

6. Smt. Shanta Jindal possesses the educational qualification of B.A., B.Ed. and Diploma in Library Science and hence she would not be entitled to be appointed in the pay scale of Rs.8000-13500/-. Moreover, Smt. Shanta Jindal, Ex-Librarian, College of Art has already retired from Government service on 31.1.2001 and the post of Librarian occupied by her in the College of Art is at present vacant. It will, therefore, not be possible to upgrade the post with retrospective effect.

In view of above and especially considering her educational qualification, it is, therefore, not possible to grant the pay scale of Rs.8000-13500/- to her."

8. By virtue of the present application, the applicant seeks quashing of the said order and to direct respondents to



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grant the pay scale of Rs.2200-4000 from 1.1.1986 and the scale of Rs.8000-13500 from the date it has been granted to other Librarians of the College.

9. The application has been contested.

10. So far as the plea of the respondents that the applicant does not fulfil the revised qualifications as per AICTE notification of 30.12.1999 is concerned, the said plea must be rejected. This is so because as is apparent from the notification of AICTE, the revised qualifications will be required only for fresh appointees. The relevant part of the same reads:

- (i) "the revised qualifications and experience will be required only for fresh appointees to that post and will not be insisted on for existing incumbents working on those positions.
- (ii) for open selection to a higher cadre position through advertisement internal candidates presently working in a lower position will be exempted from the prescribed higher qualification and experience to the extent that they will be required to possess only the qualifications and experience prescribed by AICTE prior to this pay revision. This relaxation will be available only for a period of 5 years from the date of issue of this notification. Thereafter, internal candidates must also possess the qualifications and experience prescribed in this notification.

3. Teachers already in service prior to January, 1996 and who at the time of their recruitment possessed only a second class in their degree at Bachelor's or

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Master's level (but met all the qualification requirements prescribed by AICTE at the time of their recruitment) shall be exempted from the requirement of First Class for the Degree they had at the time of their recruitment."

11. Since the applicant was already in service, therefore, it is improper to say that revised qualifications are applicable to the matter of the applicant.


12. During the course of submissions advanced at the Bar, it was stated that the similarly situated Librarians had been granted the higher pay scale but that becomes immaterial because of the inter-se decisions between the parties by the Delhi High Court in CWP No.4791/2002, decided on 9.8.2002, to which we have referred to above. The said Petition was disposed of in terms of the decision in CWP No.1960/2001 of 18.5.2002. The respondents had been directed to make the job evaluation of the post and thereafter take an appropriate decision. The job evaluation has been done. According to the respondents, the Government was of the view that the job requirement of the post of Librarian in Degree Level Technical Institutions does not entitle her to be appointed in the scale of Rs.8000-13500. In face of the said facts and in the absence of there being any other material to show that the same has been done on an erroneous premises, we find no reason to accept the contentions of the applicant that she is in any case is entitled to the scale of Rs.8000-13500.


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13. Another reason given is that the applicant had superannuated on 31.1.2001 and it is not possible to upgrade the post with retrospective effect. That indeed would be incorrect because the applicant seeks higher scale from 01.01.1996 as the Fifth Central Pay Commission has been enforced from that date. Thus, the applicant necessarily has to get the benefit from that date.

14. We pain to record that matter of Smt. Sudha Bedi, who has junior to the applicant and was working as Assistant Librarian in the College of Art, has been granted the revised scale of Rs.5000-8000 at par with the Librarians of Polytechnic. The applicant admittedly was senior to her and working as Librarian. Even if her post was upgraded to Assistant Librarian to that of Librarian, necessarily, the applicant cannot be discriminated. Necessarily, she should also be given the same scale on job evaluation and it must be held that she is entitled to Rs.5000-8000 from 1.1.1996 when the Fifth Central Pay Commission's report was enforced.

15. For the reasons given above, we allow the present application in part. It is declared that the applicant is entitled to the scale of Rs.5000-8000 from 01.01.1996. Necessary arrears, if any, should be paid to the applicant with consequential benefits.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman