

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1763/2004

New Delhi this the 9th day of February, 2005

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (a)

V.K. Mangla,
Assistant Library & Info. Officer,
Ministry of Defence,
Library, 129E, South Block,
New Delhi

... Applicant

(By Advocate : Mr. M.K. Bhardwaj)

Versus

Union of India & Ors through :

Secretary,
Ministry of Defence,
South Block, New Delhi

The JS(T) and CAO,
Ministry of Defence,
Library, South Block,
New Delhi

... Respondents

(By Advocate : Mr. Parvinder Chauhan)

ORDER

By Hon'ble Mr. S.K. Malhotra :

This OA has been filed by the applicant with the prayer to quash and set aside the order dated 09.10.2003 by which the claim of the applicant has been turned down for second financial upgradation by the respondents. He has prayed that the respondents may be directed to grant the second financial upgradation in the pay scale of Rs.10,000-15,200/- to him with effect from 9.8.1999 with all consequential benefits including interest.

2. The facts of the case, in brief, are that the applicant had joined the respondents-department in 1963 as Librarian Gr.III. Later, the post was redesignated as Librarian Gr.II. He remained in this grade which was revised to Rs.5000-8000/- as per the recommendations of the Fifth CPC. In terms of the ACP Scheme introduced by the Government in 1999, he was granted the first financial upgradation after completion of 12 years service in the pay scale of Rs.6,500-10,500/- vide order dated 2.5.2001 (Annexure A/2). However, a fresh order was issued on 25.2.2002 whereby the applicant was granted first financial upgradation in the pay scale of

Rs.5,500-9000/- and the second financial upgradation in the pay scale of Rs.6,500-10500/- w.e.f. 9.8.1999. This order was issued consequent to a clarification issued by the DOP&T (Annexure A/3). Later, the scale of pay of the post held by the applicant was revised from Rs.5000-8000 to Rs.5,500-9000 w.e.f. 1.1.1996. Consequently the applicant, was granted the first financial upgradation and was placed in the pay scale of Rs.6,500-10,500/- w.e.f. 9.8.1999. He has contended that while initially the applicant was granted both the financial upgradations simultaneously, however, vide order dated 25.2.2002 he has now been granted only one financial upgradation in the pay scale of Rs.6,500-10,500/. He has, however, been given promotion to the post of Assistant Library and Info. Officer. For the grant of second financial upgradation, the applicant had submitted a representation, but the same has been rejected vide letter dated 9.10.2003 in which it is mentioned that the Screening Committee after examining the service record of the applicant did not recommend his case for second financial upgradation. However, later vide order dated 11.3.2004 he has been granted the second financial upgradation in the pay scale of Rs.10,000-15,200/- w.e.f. 5.3.2004 instead of 9.8.1999. It has been contended by the applicant that when he was initially found suitable for both first and second financial upgradations, there was no reason for the Screening Committee to deny him the second financial upgradation, merely because the pay scale of the post which the applicant is holding was revised.

3. The respondents have filed a counter reply in which they have stated that the applicant was granted promotion to the post of ALIO on 6.5.2003 in the pay scale of Rs.6,500-10,500/. In so far as grant of second financial upgradation is concerned, as the next scale was a higher scale of Rs.10,000-15200/-, the Screening Committee was to be chaired by the Defence Secretary. The meeting of the Committee was held on 29.09.2003 but it did not find him fit for granting the second financial upgradation. He was, however, again considered and granted the second financial upgradation w.e.f. 5.3.2004 after being found fit by the Screening Committee. It has been further stated that the composition of the Screening Committee for both the ACPs is different in view of the different pay scales. As such the second ACP granted to him earlier in the pay scale of Rs.6,500-10,500/- was required to be reviewed by the competent Screening Committee headed by the Defence Secretary. The applicant was found fit for grant of second financial upgradation only by the Screening Committee in its review meeting held on 5.3.2004. Thus the benefit of the revised pay scale was given w.e.f. 5.3.2004 instead of 9.8.1999.

4. We have heard both the learned counsel for the parties and have also gone through the pleadings on record.

5. During the course of discussion, the learned counsel for the applicant raised the point that if the applicant was found eligible for both the financial upgradation by a Screening Committee,

it is not understood as to how the subsequent Screening Committee did not find him fit for the second financial upgradation. The second financial upgradation became due to the applicant only because of the revision in the pay scale and on this count, the Screening Committee headed by the Defence Secretary could not have found him unfit.

6. The learned counsel for the respondents, on the other hand, stated that the applicant was allowed the second financial upgradation in the pay scale of Rs.6,500-10,500/- by the Screening Committee headed by an Additional Secretary. However, with the revision in the scale of pay from Rs.5,500-9,000/- to 6,500-10,500/-, the applicant was granted the first financial upgradation in the scale of Rs.6,500-10,500/- w.e.f. 9.8.1999. The pay scale of the second financial upgradation is in the scale of Rs.10,000-15,200/. This pay scale is for Group 'A' post while the pay scale of Rs.6,500-10,500/- granted to him earlier was for a Group 'B' post. Thus, for the purpose of second financial upgradation in the pay scale of Rs.10,000-15,200/-, his case was required to be considered by the Screening Committee headed by the Secretary. This Committee which met on 23.9.2003 did not find him fit. However, his case was again considered in a subsequent meeting held on 5.3.2004 and he was found fit by the Committee and as such the second financial upgradation was allowed to him w.e.f. 5.3.2004.

7. We have considered the rival contentions of the parties and have also gone through the original record of the department. From the facts enumerated above, it is clear that the post held by the applicant in respect of which the pay revision was made was that of Librarian Grade-II from the pay scale of Rs. 5000-8000 to Rs. 5500-9000 and not in the scale of Rs. 6500-10500 which was granted to him consequent to the first financial upgradation. Since the second upgradation was in the scale of Rs. 10,000-15200 which is a scale of group 'A' post, his case was considered by the Screening Committee headed by the Defence Secretary on 26.9.2003 in which the ACRs of the applicant for the period from 1993-94 to 1998-99 were considered. Based on the ACR gradings given during this period, he was not found fit by the Screening Committee. However, in the subsequent meeting held on 5.3.2004 the case of the applicant was reconsidered and based on his ACRs during the last five years from 1998-99 to 2002-03 he was found fit by the Screening Committee. It is evident that the applicant was earlier found fit for both first and second financial upgradations by a Committee headed by the Additional Secretary. However, as the pay scale of the post for which he was considered for second upgradation was Rs. 10,000-15200 and is Group 'A' post, the Screening Committee was required to be headed by the Secretary as per rules. The Screening Committee did not find him fit in the meeting held on 23.9.2003 but subsequently he improved upon his performance and he was found fit by the Screening Committee in its meeting held on 5.3.2004.

8. It is an accepted principle of law that the Tribunal cannot sit on judgement over the selection made by the DPCs/Screening Committees unless the selection is assailed as being vitiated by malafide or on the ground of being arbitrary. Whether the candidate is fit for promotion or not has to be decided by a duly constituted Selection Committee which has the expertise on the subject. The Court has no expertise and as such decision of the Selection Committee cannot be interfered with. On this aspect of the matter, we are relying on the judgement in case of **Anil Katiyal (Mrs.) Vs. UOI** (1997 (2) SCT 157 (SC) and **D.A.Solanki Vs.Dr.B.S.Mahajan** (AIR 1990 SC 434). After going through the original records, we are fully satisfied with the assessment made by the Screening Committee in both the meetings held on 23.9.2003 and 5.3.2004. The point raised by the learned counsel for the applicant that he cannot be denied the second financial upgradation solely due to revision in the pay scale is not based on facts. The revision in pay scale was only in respect of the post held by him as Librarian Grade-II and not in the pay scale of Rs.6500-10500 which was granted to him as first financial gradation. The second financial gradation in the pay scale of Rs. 10,000-15200 was not as a consequence of any revision in the scale but was the next promotional grade of the post of Library Information Officer (L10) which was granted to him w.e.f. 5.3.2004 after clearance by the Screening Committee in its meeting held on 5.3.2004. We do not find any irregularity committed by the respondents.

9. In view of the foregoing, the OA turns out to be devoid of any merit and the same is accordingly dismissed. No order as to costs.


 (S.K. Malhotra)
 Member(A)


 (Shanker Raju)
 Member (J)

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