

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A.35/93

DATE OF DECISION :- 26.11.99

H.B.Desai : Petitioner [s]

Mr.M.S.Trivedi : Advocate for the petitioner [s]

Versus

Union of India & ors : Respondent [s]

Mr..M.R. Shah Advocate for the Respondent [s]

CORAM

THE HON'BLE MR. V.RADHAKRISHNAN : MEMBER [A]

THE HON'BLE MR. A.S.SANGHAVI : MEMBER [J]

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment? ~
2. To be referred to the Reporter or not ? ~
3. Whether their Lordships wish to see the fair copy of the judgment ? ~
4. Whether it needs to be circulated to other Benches of the Tribunal ? ~

Shri H.B.Desai,
News/ Film Librarian,
Doordarshan Kendra,
Ahmedabad.

Applicant

Advocate Mr.M.S.Trivedi

Versus

1. Union of India : Through :
Directorate General Doordarshan,
Doordarshan Bhavan,
Mandi House,
New Delhi.
2. The Director,
Doordarshan Kendra,
Ahmedabad.

Respondents

Advocate Mr.. M.R. Shah

J U D G M E N T

IN

O.A.No.35/93

Dt. 26.11.99

Per Hon'ble Mr.A.S.Sanghavi Member [J]

The applicant who is working as a News/ Film Librarian with the Ahmedabad Door Darshan Kendra has moved this O.A. against the refusal of the respondents to place him in the revised pay scale of Rs. 1400- 2600 . The applicant was originally appointed on the staff of the Door Darshan Kendra, Ahmedabad Pij. as News/ Film Librarian vide the order dated 11.1.81 and thereafter in continuation of that order dated 18.9.84, he was appointed for a period up to 20.12.2014 i.e. up to the age of 58 years of the applicant and his probation period was also terminated w.e.f. 11.1.83. In the year 1990, in view of the recommendation of the Chattopadhyay Committee, the Central Government has introduced the revised pay scale for Library staff and a office memorandum dated 24.7.90 was issued. The applicant had also opted to be placed in the revised pay scale of Rs.1400- 2600 but his request for the revised pay scale was rejected on the ground that he did not possess the necessary qualification. The applicant has contended in his application that he is very much entitled to be placed in the revised pay scale of Rs.1400-2600 w.e.f. 24.7.90 as he has already been working as Librarian since 1981.

2. The respondents in their reply have maintained that the applicant is not entitled to be placed in the revised pay scale of Rs.1400-2600 as he has not fulfilled the required conditions for claiming the pay scale. According to the respondents, the revised pay scale is available only to those librarians who are holding the Bachelor degree of Library, and the applicant is not fulfilling the said qualification and therefore, he is not entitled to be placed in the revised scale of Rs.1400-2600. They have asserted that he had rightly been denied the same scale.

3. We have heard the learned advocates of both the parties and have considered the relevant rules in this regard.

4. A bare perusal of the O.M. No.19[1]1C/86 dated 24.7.90 read with Annexure 1, annexed with it, leaves no room for doubt that the denial of the revised pay scale to the applicant has emanated from the misreading or misunderstanding of this O.M. There is no denial that prior to the introduction of the revised pay scale along with the revised Recruitment Rules vide the above mentioned O.M. dated 24.7.90, the applicant was placed in the scale of Rs.1200-2040 and

by clubbing of six pay scales for the posts of Library Information Assistant, a revised pay scale of Rs.1400-2600 is recommended vide O.M. dated 24/7/90. The table showing the designation, existing pay scales, revised pay scale as well as the remarks for the post of Library Information Assistant as given in O.M. dated 24.7.90, is reproduced as under:-

Sl No	Designation	Existing pay scale	Revised pay scale	Remarks
1	Jr. Library Attendant	759-940	759-940	Direct entry Middle pass
2	Library Attendant	775-1025	775-1025	Promotional Grade
3	Sr. Library Attendant	800-1150	800-1150	Promotional Grade
4	Library Clerk	825-1200 950-1400 950-1500 975-1500 975-1540 975-1660	950-1500	Direct entry Matriculation
5	Library Information Assistant	1200-1800 1200-2040 1320-2040 1350-2200 1400-2300 1400-2600	1400-2600	Direct entry Graduate with Bachelor in Lib. Science/P romotional Grade for Library Clerks

Along with this O.M., the Annexure 1 is annexed providing the necessary qualification for the recruitment of different posts. The particulars of five posts as given in the Annexure 1 are reproduced as under:-

Sl No	Designation	Pay scale	Qualification & Experience	
			Direct	Promotion
1	Jr.Lib.Attendant	750-940	Middle pass	
2	Library Attendant	775-1025		Promotional Grade for Jr.Library Attendant
3	Sr.Library Attendant	800-1150		Promotional Grade for Library Attendant
4	Library Clerk	950-1500	Matriculation	
5	Library Information Assistant	1400-2600	BA/BSc/ B.Com + B Of Library Science	Promotion Grade for Library Clerk

5. It is quite obvious from the above recruitment table that the entry is to be made as a Junior Library

Attendant in the scale of Rs.750-940 and qualification prescribed for this lowest post is Middle pass. The next two posts of Library Attendant and Senior Library Attendant are promotional posts where no direct entry is provided and they can be promoted from the Junior Library Attendant. However, for the next higher post of Library Clerk, direct recruitment is provided for which, the required qualification is Matriculation. It is worthwhile to note at this juncture that the post of Library Clerk is not considered to be a promotional post and it is to be filled up only by direct recruitment. However, the post of Library and Information Assistant is provided with the two avenues of recruitment viz. direct recruitment as well as promotion from the Library Clerk. Now so far as the direct recruitment is concerned, the qualification prescribed is B.A/ B.Sc/ B.Com plus Bachelor of Library Science. There is no mention of any such qualification so far as the promotional column is concerned. It becomes therefore quite evident that when the post of Library and Information Assistant is to be filled up by promotion then, no question of Library Clerk possessing the qualification of Bachelor of Library Science arises. This qualification of a candidate

having Bachelor of Library Science along with graduation is prescribed only when it is filled up by direct recruitment. The distinction between the two is also quite obvious. Since for feeder cadre of Library Clerk, the qualification prescribed is of only passing of matriculation, on promotion to the post of Library and Information Assistant, the Library Clerk cannot be expected to possess the qualification of Bachelor of Library Science. Even a lay man can understand this aspect of the matter. However, inspite of this position, and inspite of this clear distinction between the qualification of direct recruitment and the promotional cadre of Library Clerk, the respondents have chosen to reject the request of the applicant for being placed in the grade of 1400-2600. What is surprising is that they have adhered to their rejection inspite of subsequent O.M. issued by the Government of India, dated 19.8.92 clarifying this position. In this O.M. NO. AB 14017/43/91-Estt[RR] dated 19.8.92 issued by the Ministry of Personnel, P.G. & Pensions referring to the O.M. No. 19[1]/IC/86 dated 24.7.90. It is clarified as under:-

"In the above referred O.M. dated 24.7.90 persons working in the various pay scales [Rs.1200-1800, 1200-2040, 1320-2040, 1350-2200, 1400-2300 , 1400-2600] have been

placed in the revised pay scale of Rs.1400-2600 with the designation of Library and Information Assistant. It is possible that junior persons possessing the requisite qualification would get the pay scale of Rs.1400-2600 whereas some seniors would not get the same due to the fact that they do not possess the requisite qualification even though they may be performing the same type of duties. In such cases it would be desirable to include these posts also as feeder posts for promotion to the grade of Library and Information Assistant with minimum number of years of service for each grade as prescribed in the guidelines contained in this Department's O.M. No. AB 14017/12/87-Estt[RR] dated 10.3.88. This would of course be without insisting on the qualifications prescribed for direct recruitment for this post. This is being suggested as while there would be no recruitment in future to all those grades, it would be necessary to provide for some promotional avenues for persons presently working in those grades so that they do not stagnate for their entire career in the same grade."

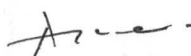
6. In spite of this clarification by the Government, it is unfortunate that the respondents have kept on insisting that since the applicant did not possess the necessary qualification he was not entitled to be placed in the revised pay scale of Rs.1400-2600. It is therefore, quite obvious that the refusal of the respondents to place the applicant in the scale of 1400-2600 is not only illegal and arbitrary but also smacks of some malice. They have shut their eyes to the fact that the applicant has been althroughout working as Librarian and was therefore entitled to be placed in the revised scale of 1400-2600. He had already put up work as Librarian and was entitled to the said scale on the principle of equal pay for equal work.

7. Mr. Shah learned counsel for the respondents has cited some decisions of the Supreme Court vizly. D.K. Jain Vs. State of Haryana, reported in ATC [29] 1995 page 334 but this decision has absolutely no application to the facts of the instant case. In that case, the Punjab Government's bar of promotion of Executive Engineers not possessing the requisite qualification to the post of Suprintending Engineer was challenged and it was held by the supreme court that bar of promotion was

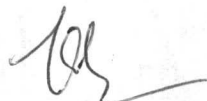
intra vires articles 14 and 16 of the Constitution. In the instant case, there is no dispute that the qualification for the post of Library and Information Assistant is prescribed but then this qualification refers only to the direct recruitment and not to the promotee. Hence, this decision of the supreme court has no application. The applicant therefore, cannot be denied to be placed in the scale of 1400-2600 w.e.f. 24.7.90. The O.A. therefore deserves to be allowed and in the conclusion we pass the following order.

ORDER

The O.A. is allowed and the respondents are directed to place the applicant in the scale of Rs.1400-2600 w.e.f. 24.7.90 with all consequential benefits. This order may be given effect within 3 months from the date of receipt of a copy of this order by the respondents. No order is passed as to costs.


[A.S.Sanghavi]
Member [J]

S.S


[V.Radhakrishnan]
Member [A]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE O.A./ 32193

NAME OF THE PARTIES Mr. B. Desai
VERSUS
U.O.I. & ORS.

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