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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 527 OF 1994

Cuttack, this the 27th day of March, 1995.

Achutananda Nayak ... Applicant
Vrs.
Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *No*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *No*


(D. P. HIREMATH)
Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

O.A.No. 527 OF 1994

Cuttack, this the 27th day of March, 1995

CORAM:

THE HON'BLE MR.JUSTICE D.P.HIREMATH, VICE-CHAIRMAN

Achutananda Nayak,
aged about 45 years,
son of late Aparna Nayak
presently residing at Doordarsan Kendra
Colony, Sambalpur, At/Po/Dist-Sambalpur. ... APPLICANT

By the Advocate ... M/s. D.N. Mishra, A.K. Mukherjee,
Advocates.

Versus

1. Union of India, represented through
the Secretary, Ministry of Information
and Broadcasting, New Delhi-1.
2. Director, Doordarsan Kendra,
Sambalpur, At/Po/Dist-Sambalpur.
3. Director General, Doordarsan
Government of India, Modi House,
Copernikas Marg, New Delhi-1.
4. Secretary, Ministry of Finance
Government of India, Department of
Expenditure, New Delhi. RESPONDENTS

By the Advocate ... Mr. Akhaya Kumar Mishra, Addl.
Standing Counsel (Central)

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O R D E R

D.P.HIREMATH, V.C. The facts in brief for the purpose of disposal of this application are that the applicant herein was serving as Wireless Operator in the Dandakaranya Project which came to be wounded in the year 1989 and those employed in the Department were to be treated as Surplus staff for being accommodated elsewhere in various Departments of the Government of India. Accordingly, under Annexure-A/1 order No.4/25/89-CS.III, the Assistant Station Engineer, Doordarshan was informed by the Director of Personnel and Training that the petitioner who was a surplus official was transferred to the Doordarshan Kendra, Sambalpur as Librarian (Junior) in the scale of pay of Rs. 1200-2040/- thereby Annexure-2 is an offer made to the Petitioner to the Post of Librarian (Junior) in the scale of Rs.1200-2040/- by the Doordarshan Kendra, Sambalpur dated 24.1.1990 and on his acceptance of the offer, the order Annexure-3 dated 18.12.1991 came to be made appointing him as Librarian (Junior). It is not disputed that he joined in the said post on 5.2.1990 and has been serving as such in the Doordarshan Kendra, Sambalpur.

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There was a revision of pay scales by the report of the IVth Commission and as per Annexure-4, all Library Information Assistants ^{drawings} joined Rs.1200-2040/- alongwith others in different scales were to get pay in the scale of Rs.1400-2600/-. This order is dated 24.7. 1990. When the Petitioner put forth his claim to fix his salary in the revised scale, the reply sent by the Director General of Doordarshan dated 6th April, 1993 was that because the petitioner is not in possession of the requisite educational qualification, it will not be possible to place him in the revised pay scale of Rs. 1400-2600/-. This is how, the petitioner has moved this Tribunal to accord the revised pay scale referred to above.

2. Mr. Akhaya Kumar Mishra, learned Additional Standing Counsel (Central) reiterated the stand of the respondents that because the petitioner does not have the requisite qualification is not entitled to that scale. He invites my attention to Col. No. 5 in a table appended to Annexure- A/4 a copy of the order of the Ministry of Finance declaring the revised pay scale applicable to various categories of staff. In Col. No. 5 'requisite qualification for an entrant as a Library Information Assistant is a graduate ⁱⁿ in Library Science. In the first flush one would be

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inclined to negative the case of the petitioner summarily if the qualification at Col. No. 5 for the post he is holding is looked at. But Mr. D. N. Mishra invites my attention to the exception made in para-4 to Annexure A-1 which reflects the terms and conditions regulating the deployment ^{staff.} of surplus Group 'C' staff. It reads thus:

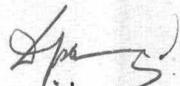
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"A surplus employee cannot be treated to be ineligible for appointment to a post for which he is nominated merely because he does not have the prescribed educational qualifications. The minimum educational qualifications (except in cases where certain minimum technical qualifications are ~~and~~ prescribed for a particular post) may be deemed to have been relaxed in exercise of the powers conferred on the Department of Personnel and Training under rule 5(ii) *ibid*".

3. If Para-4 is perused even casually, it goes without saying that the appointing authority must be deemed to have ~~been~~ relaxed the educational qualification required for the post of Library Information Assistant. In view of the peculiar circumstances namely that the Dandakaranya Project has been wound up and the petitioner ^{as} is a surplus staff had to be accommodated in some other Department of the Government. That being so, I do not find any merit in the contention of the respondents that because of lack of educational qualification, the petitioner is not entitled to the revised scale

of pay. The petition is therefore, has to be allowed and is allowed. It is ~~therefore~~ ^{hence} directed that the petitioner ^{shall} be given the revised pay scale with effect from the date he is entitled for the same and arrears in the revised scale shall be paid within 90 days from the date of receipt of a copy of this order.

No costs.



(D. P. HIREMATH)
VICE-CHAIRMAN

KNM