

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.191/2005

Date of decision:10.02.2010

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Dr. K.S.Sugathan, Administrative Member.

Madan Gopal Chhangani aged about 52 years, S/o Moti Lal by caste Brahmin resident of Bikaner, Baraha Gawar chowk, Near Water Pump Bikaner at present as a Library Attendant Akashwani Bikaner.

: applicant.

Rep. By Mr. Shyam S. Khatri : Counsel for the applicant.

Versus

1. The Union of India through the Secretary, Ministry of Information and Broadcasting, Sansad Marg, New Delhi.
2. The Centre Director, Akashwani, M.I. road, Jaipur.
3. Assistant Centre Director, Akashwani Karni Singh Stadium, Bikaner.
4. The Dist. Collector, Collectorate Campus, Bikaner.

Mr. M.Prajapat proxy counsel for
Mr. Ravi Bhansali ; Counsel for the respondents 1 to 3

None present for respondent No. 4

ORDER

Per Mr. Justice S.M. M. Alam, Judicial Member .

Applicant Madan Gopal Chhangani, who is presently working as Library Attendant in Akashwani Bikaner, has preferred this O.A for grant of following reliefs:

- I) By an appropriate order or direction the impugned order dated 31.03.2004 (Annex. A/1) passed by the respondent No. 3 may kindly be declared illegal and be quashed and set aside.
- II) By an appropriate order or direction, the respondents may kindly be directed to grant promotion to the applicant on the post of Assistant and further they may be directed to grant grade to the petitioner in the pay scale of Rs. 4000-6000.

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2. The brief facts of the case are as follows:

The applicant was initially appointed as Attendant in October 1977. He was reverted to the post of Studio Guard vide order dated 17.02.1978 (Annex. A/2). In the year 1987, the applicant was promoted to the post of Library Attendant. The Government of India initiated a scheme called "Assured Career Progression Scheme" herein after referred to as "ACP Scheme" for Central Government employees in the year 1999. As per the ACP Scheme, the applicant was entitled for up-gradation of pay on completion of 12 and 24 years of service. He claims to be entitled to get upgraded pay scale of Rs. 4000-6000, but he was granted pay in the pay scale of Rs. 3050-4590 vide order dated 23.01.2002 (Annex. A/3), whereas similarly situated persons were granted the upgraded pay scale of Rs. 4000-6000. Further case of the applicant is that he is also entitled to get promotion to the post of Assistant on completion of 5 and 10 years of service but he was refused promotion and for the last 15 years he is continuously working on the post of Library Attendant.

3. The main grievance of the applicant is that all of a sudden, the respondent No. 3 vide order dated 31.03.2004, withdrew the order dated 23.01.2002 by which up-gradation was granted to him. The order was passed without giving any reason. The said order is under challenge, which is Annex. A/1. It is further stated that the applicant has filed representation Annex. A/4 but without any effect.

4. On filing of the application, notices were issued to the respondents and in compliance to the notices the respondents 1 to 3

-3-

have appeared through lawyer and filed their reply. In the reply it has been admitted by the respondents that the applicant was granted second ACP up-gradation which became due to him after completion of 24 years of service and his pay scale was raised from Rs. 2600-4000 to Rs. 3050-4590. Later on making representation by the applicant, it was found that the applicant was wrongly granted the pay scale of Rs. 3050-4590 as he was not qualified for the said scale of pay. It has been stated that as per OM No. 35034/2/2001 - Estt. (D) dated 01.03.2001, the pay scale of Rs. 3050-4590 can be granted only to those Group D employees who are at least matriculate and since the applicant was not a matriculate, his pay scale was revised from Rs.3050-4590 to Rs. 2750-4000. It has further been stated in the reply that there is no post of Assistant in the library set up and as such no question of giving promotion to the applicant would arise. On the basis of above averments, the respondents have prayed for the dismissal of the O.A.

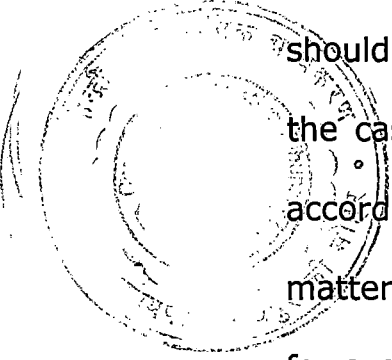
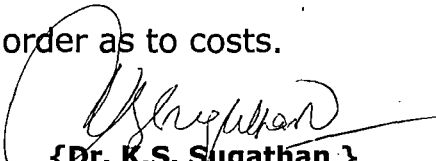
5. We have heard the learned counsel appearing for both parties and gone through the impugned order Annex. A/1. During the course of the argument the learned advocate of the applicant has drawn our attention towards annex. A/7 which shows that for the posts of Junior Library Attendant and Library Attendant, the educational qualification is middle pass. The learned counsel contended that Annex. A/7 falsifies the averment made by the respondents that for the post of Library Attendant the educational qualification of Matriculation is required. He further submitted that although in the reply the respondents have mentioned reasons for withdrawal of ACP granted

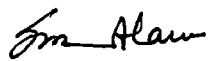
to the applicant, but in the impugned order (Annex. A/1), which is under challenge no reason has been assigned and therefore the same cannot be upheld in the eye of law.

6. We have perused Annex. A/1. In our view it is definitely a non speaking order and no reason has been assigned by the competent authority for withdrawing the earlier order, by which the applicant was granted the pay scale of Rs. 3050-4590 under the second ACP. It is settled law that such order cannot be allowed to stand as the same is non-existent in the eye of law.

7. Under these circumstances, we are of the view that Annex. A/1 should be quashed with directions to the respondents to re-consider the case of the applicant and pass reasoned and speaking order in accordance with law. Accordingly, annex. A/1 is quashed and the matter is remitted back to the respondents for reconsideration and for passing speaking order.

8. With the above observation the O.A stands disposed of with no order as to costs.



{ Dr. K.S. Sugathan }
Administrative Member.
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{ Justice S.M.M. Alam }
Judicial Member.

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