

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 255 OF 2008

Thursday, this the 22nd day of October, 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

K.P.Abdulkhader
Residing at Karatholapura
Kavaratti
Cataloguer, Central Library
Kavaratti

... **Applicant**

(By Advocate Mr.Thampan Thomas)

versus

1. The Administrator
Union Territory of Lakshadweep
Kavaratti
2. The Director
Social Justice, Empowerment & Culture
Union Territory of Lakshadweep
Kavaratti
3. Union Government of India
Represented by its Secretary
Ministry of Home Affairs, Personal & Administration
New Delhi ... **Respondents**

(By Advocate Mr.S.Radhakrishnan (R1&2)
Advocate Mr.TPM Ibrahim Khan, SCGSC (R-3))

The application having been heard on 24.09.2009, the Tribunal on 22.10.2009 delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant was appointed as a Librarian in the Education Department in 1988. The Directorate of Social Welfare and Culture issued circular to fill up the post of Classifier and Cataloguer on deputation from amongst Librarians having 5 years of service in the Government High School.

The applicant was an aspirant for the post of Cataloguer and was so taken on deputation first, and later on he was absorbed on permanent basis in December 1995. Sometimes in 1998, the post of Assistant Librarian and Classifier in the Central Library Kavaratti were re-designated as Library & Information Assistant with the pay scale of Rs 1400 – 2300. The post of Cataloguer, which had identical pay scale as of Classifier, however, was neither re-designated nor afforded higher pay scale. As such, the applicant preferred a representation and the Lakshadweep Central Library took up the matter vide letter dated 17-11-2000. However, there was no positive response. In February 2002, the Ministry of Finance had issued an office Memorandum stating that as the Fifth Central Pay Commission recommended uniform implementation of OM dated 24th July 1990 issued in the wake of recommendations of the IV Pay Commission Recommendations, the same were to be duly implemented. The applicant had moved the respondents in this regard vide representation dated 26-12-2003 and this also did not evince any favourable response. Subsequently reminders were submitted by the applicant but these too have not been responded to. Hence this OA praying for a declaration that the applicant is entitled to pay scale of Rs 5000 – 8000 and fitment in that scale from the date of Pay Revision for Classifier, Library & Information Assistant. (Alternative prayer was for a direction to the first and second respondent to dispose of the representation).

2. Respondents have contested the O.A. According to them, the facts with regard to the service particulars of the applicant, as stated above are not denied. However, it has been stated, "The case of Cataloguer was considered along with Assistant Librarian and classifier for awarding the scale of pay entitled for the post of LIA (Classifier) as the incumbent was not having requisite qualifications of Graduation with a degree in Library science. The post of Classifier and Assistant Librarian were re-designated as LIA as per

the Notification dated 08-08-1994. The applicant is not possessing the required qualification of B.Lib with a graduate degree." Again, the contention that the post of Cataloguer is similar to Classifier and LIA has not been admitted by the respondents. According to them, the request vide letter dated 17-11-2000 from the library development officer is not for upgradation of the post of Cataloguer but for redesignation of the post on the ground that the post of Cataloguer is non-existent in the library stream. It has also been asserted that no post which the junior to the applicant was holding had been upgraded. Applicant's representation dated 05-06-2007 was considered, but since he did not complete 12 years of service, he was not considered for ACP Scheme.

3. The applicant has filed his rejoinder, in which he has added a copy of the recruitment rules for the post of Asst. Librarian, Classifier and Cataloguer. He has also annexed a copy of the notification dated 8th August, 1994 whereby all the posts of Librarian, Reading Room cum Library with the erstwhile scale of pay of Rs 1200 – 2400 had been placed on a scale of pay of Rs 1400 – 2600 in accordance with the provisions of para 2.1 of OM dated 24-07-1990. Similarly, in 1998, the post of Asst. Librarian and Classifier created in 1990 had been re-designated as Library & Information Assistants, vide Annexure A-11 Notification dated 29th August, 1998. In his rejoinder the applicant has in reply to para 5 of the counter (wherein reference to qualification of the applicant has been made) has stated as under:-

" Para 5 of the reply statement respondents have stated that Sri Abdul Khader, Cataloguer is not possessing required qualification of B.Lib with a graduate degree. The qualification of B.Lib with a graduation is not necessary for this applicant, because this applicant has more than 3 years of regular service as a Cataloguer. Therefore there is no question of qualification B.Lib with a graduate degree will arise. This applicant is qualified for LIA by promotion only. The schedule of the Lakshadweep Gazette is produced herewith and marked as Annexure A-9. Moreover there are 9 members were



appointed to LIA by promotion. Out of these nine members two of them died. The names of nine members are ; 1. T.K.Sainul Hameed, 2. M.Kasmi, 3. T.C.Kaidav, 4. P.T.Sayed Mohammed 5.N.Sayeed Shaik 6.KRB Ali, 7. Siraj Koya 8. Late P.Pookoya and 9. Late K.P.Sayed. The notification of the re-designation of these nine Librarians is produced herewith and marked as Annexure A-10. These members are not having graduation. They were worked as RRCL – Librarian. Now they are working as LIA. The post of classifier and Assistant Librarians are re-designated as LIA as per the notification F.No.3/4/94-SWC dated 29.08.1998 and not by the notification F.No.3/4/94-SJEC dated 8.8.1994. The notification dated 29.08.1998 is produced herewith and marked as Annexure A-11. The nine librarians RRCL were re-designated as LIA as per the notification dated 8.8.1994."

4. In turn, respondents had filed additional affidavit, annexing a copy of the R/Rules for the post of Classifier, Cataloguer etc., in the Freedom Forty central library - Annexure R1(e) and Library & Information Assistant in the Department of Social Welfare & Culture, vide Annexure R-1(f).
5. Counsel for the applicant argued that when the respondents had notified the vacancies for the post of Cataloguer and Classifier, the requirement was only librarian in High School with 5 years' service. The pay scales attached to the two posts is identical i.e. 1350 – 2200. The post of Classifier was upgraded to the pay scale of Rs 1400 – 2300 and brought at par with the Library and Information Assistant and these have been replaced by the revised scale of Rs 5000 – 8000, whereas for the post of Cataloguer, the pay scale remained at Rs 1320 – 2200 and replacement scale at Rs 4500 – 7000, which is violative of article 14 and 16 of the Constitution of India.
6. Counsel for the respondents has submitted that the the applicant does not possess the requisite qualification for the post of Asst. Library information Assistant or Classifier.

7. Arguments were heard and documents perused. The IV Pay Commission in its recommendations in para 11.63 had recommended as under:-

"11.63 There are difficulties in reclassifying the posts of librarians and specifying their qualifications and recruitment levels. The pay scales, qualifications and recruitment levels of responsibility will really depend on several factors, mainly on the size of the library, its character and importance. To draw up suitable proposals in this regard a committee may be constituted to undertake this work. Pending such a review by the Committee, we recommend that librarians and library staff may be given the revised scales of pay proposed in chapter 8."

(As per chapter 8 of the Pay Commission Recommendations, the pay scale of Rs 1350 – 2200 had been the replacement scale for the pre-revised scales of (a) Rs 380 – 640, 380 – 620, Rs 425 – 600 and Rs 470 – 580.)

8. The O.M. Dated 24th July 1990 reads as under:-

"Sub:- Report of the Review Committee on Library Staff under purview of Central Government.

The undersigned is directed to refer to the recommendations of Fourth Central Pay Commission contained in para 11.63 of the Report wherein it was suggested that a Commission may be constituted to undertake review of the pay scales, qualifications and recruitment levels of responsibility of the Library Staff. In pursuance of the above suggestion, a Review Committee was set up by the Department of Culture in September, 1987.

2.1 After careful consideration of the recommendations made by this Commission and also keeping in view the over all policy, the Government have decided to introduce following pay structure for Library staff :-

Sl. Designation No.	Existing pay scale	Revised Pay scale	Remarks
1.....			
5. Library Information Assistant	1200-1800 1200-2040 1320-2040 1350-2200	1400-2600	Direct entry Graduate with Bachelor in Lib.
	1400-2300		Science /Promo- tional Grade for
	1400-2600		Lib. Clerks

2.2. The recruitment qualifications both for the direct recruits and promotees for each grade of the Library Staff are indicated in Annexure 1. All the Ministries and Departments are advised to modify the rules of recruitment for various posts obtaining in the Library under their control on these lines. It is not necessary that each Library will have all the grades, a Library may have one or more of these grades.

3. **Placement of existing Library Staff in the revised grades.**

3.1 The employees in the scale of pay indicated in column 3 of table under para 21.1 may be placed in the revised scales shown there against in column 4 provided the incumbent fulfills the recruitment qualifications as indicated in Annexure 1 to this O.M. In case existing incumbent does not fulfill the qualification as laid down in Annexure -1, he will continue in the existing scale of pay on personal basis. However, as and when the posts falls vacant, it will be filled up in the appropriate scale in accordance with the rules of recruitment.

3.2 The existing incumbents will also have an option to opt for the revised grade structure or continue in the existing scales of pay. Where an option is for the existing scale of pay, it will be on personal basis and in the event of vacancy the post will be filled up in the appropriate scales in accordance with the rules of recruitment. The employees in whose case the scales of pay have been revised may be desired to exercise an option to continue in the existing scale of pay or come over to the revised scales of pay within a period of three months from the date of date of issue of this order.

3.3 In case of grades where the scales of pay has been revised and the existing incumbents are placed in revised scale, the pay in the revised scales may be fixed in terms of the provisions of FR 23 read with FR 22 (a) (ii).

4. **Categorisation of the Libraries**

4.1 After placement of the existing incumbent in the grade structure indicated in para 2 above, each administrative Ministry may initiate action to categorise the Libraries under their control in consultation with F.A concerned based on the parameters indicated in Annexure II to this OM. Based on the categorisation of the Libraries so

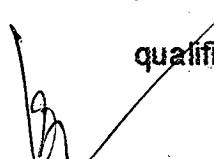
determined the designation and scale of pay of the Librarian.....

4.2 In case the existing incumbent (viz. Librarian Incharge) is in a lower scale of pay than the scale determined based on the categorisation, he may be considered for appointment in the higher scale provided he fulfills the recruitment qualifications laid down for the post ion Annexure 1 to this O.M., subject to the provisions of para 4.3.

4.3 Where based on categoristaion the post of the head of a Library gets upgraded by more than one grade, the post will be upgraded only be one step initially. Its upgradation to the appropriate higher grade may be reviewed after three years in consultation with Ministry of Finance."

9. The above OM makes it clear that the purpose of the OM is to have uniform provisions in respect of all libraries and the V Pay Commission also recommended uniform implementation of the OM dated 24th July 1990. The post of Asst. Library & Information Assistant had been placed in the scale of Rs 1400 - 2600 (by merging various pay scales from 1200 – 1800 at the minimum and 1400 - 2600 at the highest) and the post is tenable by Direct Entry Graduate with Bachelor in Library Science/Promotional Grade for Library Clerks. In the said OM it has also been stated that in case the incumbents did not possess the qualifications, then their pay would be only in the pre-revised scale and in their personal basis. It is perhaps on the basis of the above condition that the respondents contend that the applicant does not possess the qualifications.

10. But the question is when the post of classifier, which corresponds in all respects with the post of Cataloguer could be considered for upward pay revision, the reason to exclude the post of Cataloguer is not understood. A perusal of the Rules would go to show that the two posts have the same qualification requirements, same pay scale and functional responsibilities are



also comparable, as both of them are in connection with the maintenance of library. The source of recruitment is also the same (from amongst the Librarians of the High Schools). Thus, whatever good grounds exist in including the post of Classifier for revision of pay and equation with that of Assistant librarian, when available with reference to Cataloguer also, the respondents cannot discriminate to ~~include~~ ^{exclude} the same. It would have been a different matter, had the authorities considered the two posts differently for any purpose whatsoever, in which case the action on the part of the respondents could be justified. (See T. Aruna vs Secretary, A.P. Public Service Commission (2001) 9 SCC 54). That is not the case here. As regards qualification requirement to the post of Library Information Assistant, if the post is filled up on promotion basis, then there may not be any requirement as to possession of qualification as for direct recruitment. In any event, the respondents could well compare the situation with the post of Classifier and whatever grounds are attached to the post of Classifier could well be extended to the post of Cataloguer also.

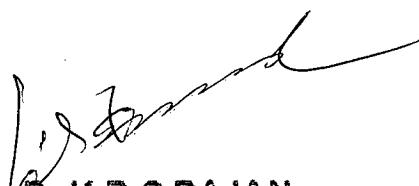
11. In view of the above the claim for parity with Classifier as contained in the OA is genuine and justifiable. Hence, this OA is disposed of with a direction to the respondents to consider the claim of the applicant, in the light of the above discussion and arrive at a judicious conclusion. In case of any plausible reason in distinguishing the two posts i.e. Classifier on the one hand cataloguer on the other, in such a fashion that grant of identical pay scale is not justified, (which reasons have not been reflected in the pleadings or during the course of arguments), the same be informed to the applicant and representation against the same called for from him and arrive at a final decision.

A handwritten signature in black ink, appearing to read 'Bh' or 'Bhagat', is written over a diagonal line.

12. Let the above exercise be conducted within a period of three months from the date of communication of this order. No cost.

Dated, the 22nd October, 2009.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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