IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application Nos. 578/96 and 896/96.

Date of Decision: 22.9.97.

Shri Dr.V.B.Singh & Ors. — Applicant.

Shri S.P.Saxena and Dr.A.Shivade. — Advocate for Applicant.

Versus

Union of India & Ors. — Respondent(s)

Shri R.K.Shetty. — Advocate for Respondent(s)

CORAM:

Hon'ble Shri. B.S.Hegde, Member(J),

Hon'ble Shri. P.P.Srivastava, Member(A).

(1) To be referred to the Reporter or not? X

(2) Whether it needs to be circulated to other Benches of the Tribunal? X

B.S.Hegde

(M.R.KOLHATKAR)
MEMBER(A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

1. ORIGINAL APPLICATION NO. 578 / 1996.
2. ORIGINAL APPLICATION NO. 896/ 1996

2nd, this the Forty day of September 1997.

Coram: Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri P.P.Srivastava, Member(A).

1. Original Application No.578/1996.

1. Dr.V.B.Singh,
Reader,
National Defence Academy,
Khadakwasla,
Pune - 23.

2. Dr.B.C.Srivastava,
Reader,
National Defence Academy,
Khadakwasla,
Pune -23.

3. Dr.Akhileshwar Pandey,
Reader,
National Defence Academy,
Khadakwasla,
Pune - 23.

4. Dr.S.P.Dwivedi,
Reader,
National Defence Academy,
Khadakwasla,
Pune-23.

5. Dr.Ratanlal Kothari,
Reader,
National Defence Academy,
Khadakwasla,
Pune-23.

6. Dr.A.Bhaskar Rao,
Reader,
National Defence Academy,
Khadakwasla, Pune-23.

7. Dr.(Mrs). Shail Kumari Singh,
Reader,
National Defence Academy,
Khadakwasla, Pune-23. ... Applicants.

(By Advocate Shri S.P.Saxena)

V/s.

1. Union of India, through
the Secretary, Ministry
of Defence, DHQ P.O.,
New Delhi - 110 011.

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2. The Chief of Army Staff,
South Block, DHQ P.O.,
New Delhi - 110 011.

3. The Director General of Military Training,
Army Headquarters,
Kashmir House,
New Delhi - 110 011.

4. The Commandent,
National Defence Academy,
Khadakwasla,
Pune-23.

5. The Principal,
National Defence Academy,
Khadakwasla,
Pune - 23. ... Respondents.

(By Advocate Shri R.K.Shetty)

2. Original Application No. 896/96.

1. K.Madhavan,
E-3-150,
NDA Khadakwasla,
Pune - 23.

2. Surjit Singh,
E-3-142, NDA,
Khadakwasla,
Pune - 23.

3. S.M.Chavan,
D-2-159-B,
N.D.A. Khadakwasla,
Pune - 23.

4. S.P.Shettar,
D3-188B, N.D.A.
Khadakwasla,
Pune - 411 023.

5. A.R.Wankhade,
Shinde Nagar,
Bavdhan,
Pune.

6. V.G.Dixit,
D-1-31, NDA,
Khadakwasla,
Pune - 411 023. ... Applicants.

(By Advocate Dr. A.Shivade)

V/s.

1. Union of India,
through Ministry of Defence,
South Block,
New Delhi - 110 001.

...3.

2. National Defence Academy,
through its Commandant,
P.O. Khadakwasla,
Pune - 23. ... Respondents.

(By Advocate Shri R.K.Shetty).

ORDER

(Per Shri B.S.Hegde, Member(J))

Heard Shri S.P.Saxena for the applicants in O.A. No.578/96 and Dr.A.Shivade for the applicants in O.A. No.896/96 and Shri R.K.Shetty for the Respondents in both the O.As. In O.A. No.578/96 the applicants are qualified and were selected by the Selection Board are possessing Ph.D degree at the time of their initial recruitment to the post of Lecturer and in O.A.No.396/96 the applicants are not having Ph.D qualification and were recruited in accordance with the existing SRO 1968 whereby Lecturers are promoted to the posts of Readers and Professors.

2. The contention raised in O.A. No.578/96 is that the applicants should be treated as Readers and direct the respondents to treat the applicants for all official purposes as having the status of Readers and to give them duties, responsibilities and priveleges as applicable to Reader's post. The applicants in the subsequent O.A. No.896/96 are seeking for a direction of granting placement or promotion to the petitioners on the basis of their length of service as Lecturers without taking into account whether they are or are not holders of Ph.D. Degrees. The issues involved in both the petitions are

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one and the same and therefore both the matters were heard together. Accordingly, we dispose of both the O.As. by passing a common order.

3. The contention of the Petitioners in O.A. 578/96 is that they are working as Bachelor Senior Grade but discharging the duties of the Reader. However, they are denied the status of Reader. Further, it is submitted that insofar as the Non-Ph.D. candidates are concerned, unless they complete the Ph.D degree they cannot be treated as Readers and cannot be given the promotion and should not be equated with that of the petitioners in O.A. 578/96. The relaxation of qualification cannot be granted in general terms. placement is only from Lecturers to Senior Lecturers, but not by way of promotion to the post of Reader. It is a question of status that is involved and not payment or seniority. There are three grades in N.D.A. (1) Lecturer - Rs.2,200-4,000 (2) Readers/Lecturers Senior Grade Rs.3700-5700 and (3) Professors Rs.4500-7200 and Lecturer Senior Scale Rs.3000-5000. The contention of the applicants is that they all have been recruited through the U.P.S.C. against permanent vacancies. All the applicants are in possession of Ph.D degree for being elevated to the post of Reader in view of the Scheme prepared by the Department of Human Resource Development dt. 22.7.1988. Under the existing SRO 1968 Lecturers are promoted to Readers and Professors, whereas, revised SRO 88 Readers and Professors were made direct recruit post as against.

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promotional post as per earlier SRO 1968 and the UGC pay scale has been made effective from 1.1.1986 through N.D.A./I.N.A., Dehradun.

4. The main thrust of argument on behalf of the applicants is to treat the applicants for all official purposes as having status of Readers and to give them duties, responsibilities and privileges as applicable to the post of a Reader in the N.D.A., Pune. It is submitted by the respondents that the main demand of the applicant is to supersede the Senior Lecturers who do not have the Ph.D qualification and to deprive them of all future promotions and status. The basic objection of the scheme of revision of pay scale of teaching staff under the control of Universities is for maintenance of standards in higher education, whereas, it was never the intention of the Government of India, Ministry of Human Resources Development to change the conditions of service of Senior Lecturers of NDA who do not possess Ph.D qualification to their detriment and to get them superseded by juniors holding the Ph.D degrees. It is also equally not the intention of the Government that a junior Ph.D should supersede the Senior Lecturers not holding the Ph.D degree. If the contention of the applicants are acceded to there would be a total demoralisation of Senior Lecturers who do not possess Ph.D qualification. The designation of Reader given to the applicants is only for the purpose of motivation for acquiring additional qualification with three additional increment and three years service benefit for placement to higher grade. In fact they

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have not been appointed or promoted, the applicants as Readers as per the statutory Rules i.e. SRO 60 dt. 22.2.1988. Further,applicants have not impleaded the affected parties i.e. Senior Non-Ph.D Lecturers whom the applicants want to supersede by this O.A. Thereby, the application filed by them is not maintainale. Similar to applicants, those Non-Ph.D candidates who have been recruited as Lecturers in various subjects as per SRO 279 of 1968 through the UPSC. The UGC scale came into being to teaching staff of Colleges and Universities w.e.f. 1.1.1973 which has been extended by the Government of India to the teaching staff of NDA w.e.f. 1.1.1983. All the members of the teaching staff were granted these pay scales without any bias to qualifications possessed by them. In the meanwhile, the UGC pay scales were revised by the Ministry of Human Resources Development and made effective retrospectively from 1.1.1986. These pay scales were also adopted by the NDA w.e.f. 2.4.1993 for the teaching staff w.e.f. 1.1.1986. The revised UGC scheme of pay scales had provided for a package of three tier time scale placements for Lecturers. The N.D.A. did not adopt such a scheme as it is not funded by the UGC and also for the reasons that the NDA teachers could not be spared for higher studies from their active tasks in the overall training requirement of cadets. Further the possession of Ph.D degree was not considered a qualification to improve the quality of instructions in the context of the unique nature of training environment at the NDA.

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On adoption of revised UGC pay scales for teaching staff of NDA w.e.f. 1.1.1986 a Screening Committee was constituted for the placement of Lecturers in senior scale and selection grade/Reader. The Screening Committee carried out the placement in July, 1994 as per the scheme of UGC referred in HRD letter dt. 22.7.88 and placed the Lecturers in senior scale and selection grade, specifying the dates of designation as Reader, from the dates they completed the required length of service for such placements. Though all the Lecturers were recruited under the same SRO's of 1968, those holding Ph.D degree were placed in the selection grade with the designation as Reader from the dates they completed the required length of service. Thus those holding Ph.D degree were placed in the selection grade with the designation as Reader after 13 years of service as Lecturer whereas those without Ph.D were placed in selection grade after 16 years of service as Lecturer. The Commandant has recommended for grant of Reader designation to all Lecturers recruited under SRO's of 1968, to avoid the organisational problems likely to be created due to disturbances in the inter-se seniority of the Lecturers in view of dual designations granted by the Screening Committee in the same pay scale of Rs.3700-5700.

5. In the light of the above, the question to be seen is whether it is incumbent on the respondents to grant status of Reader to the applicants merely because they possess Ph.D degree. It is an admitted fact that

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Respondent Department has adopted the pay scales recommended by the UGC which are applicable to the members of the teaching staff, but not the change in service conditions. The Non-Ph.D Lecturers at the time of recruitment were governed by SRO's 68 and they were to be promoted to the post of Readers and Proffessors by way of promotion. Later on, in 1988 the post of Readers and Proffessors were made as direct recruitment post. It is an admitted fact that the respondents do not get any grant from the UGC, the package of UGC does not apply to NDA. They have not granted other benefits viz. superannuation at the age of 60 years, faculty improvement programmes etc. Further it is contended that they were recruited under Article 309 of the Constitution. The respondent department cannot over come by issuing administrative instructions vide order dt. 2.4.1993, in the nature of administrative instructions. It is well settled that administrative decisions cannot supersede statutory rules. Such contentions of the applicant in O.A. 896/96 is without any substance. As a matter of fact both SROs of 68 and 88 are deemed to be equivalent to Recruitment Rules. By adopting the UGC scheme package deal persons who have got Ph.D degree got monetary benefits, but cannot get the seniority over the persons who are Non-Ph.D and who have been serving the department much earlier than the applicants. It is made clear that these officers have been extended the UGC package of pay without any

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modification. It is an admitted fact that those persons who possess Ph.D degree and placed in the category of Senior Time Scale not promoted to the post of Reader along with the post, he is to be promoted along with the post which is not the case here. During the course of hearing the learned counsel for the respondents drew our attention to the corrigendum issued by the Under Secretary to the Ministry of Defence viz. Implementation of UGC Scheme for Civilian Academic Officers at NDA and ACC Wing, INA. that the post of Reader has not been referred to for relaxation for having post-graduate teaching experience,only the post of Proffessor has been mentioned for relaxation. Since the persons who do not possess Ph.D degrees having put in considerable length of service in the career advancement they were deprived of the seniority vis-a-vis that of the present applicants. The applicants have been getting all the benefits of UGC pay scale and monetarywise they are not being deprived of the UGC scheme, except the so called status of Reader by which they are being granted certain incfements for having possessed the Ph.D degree etc. The respondent department is seriously considering the request of the applicants whether to give the status of Readers without being promoted, immediately after completion of requisite number of years of service merely on the basis of possessing Ph.D degree is under serious consideration. The counsel for the respondents submitted that they be given six months time

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