

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

MUMBAI

O.A.No.26 of 1996.

Date of Order: 18-9-2001.

Between:

Prashant Govind Manduskar.

...Applicant

and

1. Dr. S.K. Sensarma,
Director Incharge (Phy) and Head
of the Office at Central Labour
Institute, Govt. of India, Sion,
Bombay-400 022.
2. Section Officer, for the Head of
the Department, Directorate General
Factory Advice Service and Labour
Institute, Central Labour Institute
Building, N.S. Mankikar Marg, Sion,
Bombay-400 022.
3. Union of India, through the Deputy
Secretary to the Govt. of India,
(Bharat Sarkar), M/o Labour/Shram,
Mantralaya, Shram Shakti Bhavan,
Rai Marg, New Delhi-001.
4. The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-110011. .. Respondents

COUNSEL FOR THE APPLICANT :: Mr.V.A.Jadhav

COUNSEL FOR THE RESPONDENTS : Mr.R.R.Shetty

CORAM:

THE HON'BLE SRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN
THE HON'BLE SMT. SHANTA SHAstry, MEMBER(ADMN.)

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: ORDER :

(Per Hon'ble Smt. Shanta Shastry, Member (Administration))

The main grievance of the applicant is that, his post of Audio-Visual Officer in the Central Labour Institute, Bombay, was a Group 'B' Gazetted post in the pay scale of Rs.1640-60-2600-E8-125-3500 as mentioned in the recruitment rules published on 10-11-1989. However, the applicant was appointed in the pay scale of Rs.1640-2900/- and his position was shown as Group 'B' Non-Gazetted. The applicant has therefore sought to quash and set aside the orders dated 29-6-1995 and to hold that the post of Audio-Visual Officer held by the applicant is classified as Group 'B' Gazetted non-ministerial with the pay scale of Rs.1640-3500/- as mentioned in the recruitment rules notified on 10-11-1989 and to award costs.

2. The applicant in response to an advertisement issued on 26-10-1991 to 1-11-1991 in the employment news for the post of Audio Visual Officer, applied and was selected. He was appointed by order dated 1-7-1992 to the post of Audio Visual Officer in a temporary capacity. It was stated therein that his initial pay is fixed at the minimum of Rs.1640/- in the pay scale of Rs.1640-60-2600-E8-75-2900/-. Thereafter the applicant came across the letter dated 9-7-1992 received from the Central Labour Institute regarding clarification about the exact classification and pay scale of the post of Audio Visual Officer.

post, the prevailing recruitment rules were those dated 10-11-89 and therefore the applicant should have been rightly given the Gazetted status and the pay scale of Rs.1640-3500/-.

4. The respondents have submitted at the outset that the post was wrongly classified as a Gazetted post and the pay scale also was wrongly shown as Rs.1640-3500/-. Because that was not at all the intention but has happened through an oversight. In this connection, the respondents have drawn our attention to the original recruitment rules for the post of Audio Visual Officer, which were issued on 9-9-1985 (Ann.R-5). According to this recruitment rule, the post of Audio Visual Officer was classified as a General Central Service Group 'B' Non-Gazetted Non-Ministerial post. The prescribed pay scale was Rs.550-25-750-E8-30-900/-. However, when the 1989 rules came to be issued through inadvertence and typographical error, the post was wrongly shown as Gazetted Group 'A' in the scale of Rs.1640-3500/-. On realising the mistake the respondents sought to correct the same and a corrigendum was issued on 24-4-1991 (R-6), wherein the pay scale was changed to Rs.1640-2900/- from Rs.1640-3500/-. Thereafter again in consultation with the UPSC another clarification was issued that the post was to be a Non-Gazetted and it was due to typographical error that it has been shown as Gazetted in the letter, which was sent by the UPSC on 24-4-1989.

5. The contention of the applicant is that the respondents did not follow the proper procedure while issuing the corrigendum, and therefore atleast till the notification correcting the entries were made the applicant was entitled to the Gazetted status with the pay scale of Rs.1640-3500/-.

6. We have given careful consideration to the rival contentions. We find that as far as the applicant is concerned, he was appointed in the pay scale of Rs.1640-2900/-. This particular pay scale is of a Non-Gazetted post. In order to ascertain whether there was any genuine mistake or whether the Govt. of India really wanted the post to be classified as a Group 'A' post in the scale of Rs.1640-3500, we asked the record to be produced and accordingly the relevant record underlying the issuing of the recruitment rules dated 10-11-89 was produced. We see that initially when the post was created and the recruitment rules were issued for the first time on 9-9-1985, the post of Audio-Visual Officer was rightly classified as a Non-Gazetted Group 'B' post and the pay scale was Rs.550-900/-. Thereafter after the recommendations of the IVth Pay Commission were received and accepted, it became necessary to revise the pay scales and therefore and also in order to issue consolidated recruitment rules, the recruitment rules of 10-11-1989 came to be issued. We find from the proposal, which was sent to the UPSC for amending the rules that in the reasons given for amendment it has

been clearly stated that the amendment is due to the revision of pay scales with effect from 1-1-1986 on recommendations of the IV Central Pay Commission. There was no intention of upgrading the original pay scale of Rs.550-900/-, it was only to give the replacement scale as recommended by the IVth Pay Commission. Thus in the proposal the proposed provision shown against the pay scale was Rs.1640-60-2600-E8-75-2900/-. We also find that in Annexure-I, however of the proposal, through inadvertence, the post was shown as Group 'A' Non-Gazetted. However, the pay scale was still shown as Rs.1640-2900/- only. From the perusal of the record, we are satisfied that there was no intention on the part of the respondents to upgrade the pay scale of the post of Audio Visual Officer. It was mainly to replace the earlier scale of Rs.550-900/- with the revised scale of Rs.1640-2900/- as per the replacement scales as recommended by the IVth Pay Commission. It is also seen that it was through sheer inadvertence that the classification of the post was shown as Group 'A'. Therefore, it cannot be said that there was any contemplation by the respondents to give any higher scale or higher classification for the above post. We have also perused the notings on the files and found that the corrigendum was issued duly in consultation with the Law Ministry and as advised the proper procedure was followed. It was advised that it was not an amendment therefore a corrigendum would be adequate. Accordingly, the respondents took the necessary action.

7. We cannot therefore find any fault in the action of the respondents.

8. Further although the applicant has rightly pointed out that the classification and pay scale shown in the recruitment rules of 10-11-89 were higher still as far as the applicant is concerned, at the time he applied for the post, the advertisement has shown the correct classification and the correct pay scale. The applicant accepted the same and joined duty. His appointment order also clearly stated the same position.

9. We are convinced and satisfied that it was a genuine mistake through oversight and typographical error and therefore we are unable to grant any relief in this matter. Accordingly, the OA is dismissed without any costs.

Smt. Shanta Shastry *V.Rajagopala Reddy*
(Smt. Shanta Shastry) (V.Rajagopala Reddy)
Member(A) Vice Chairman

Dated : this the 18th day of September, 2001

Dictated in the Open Court

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