

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:885/2000
DATED THE 27TH DAY OF AUG,2001

CORAM:SHRI JUSTICE ASHOK C AGARWAL, CHAIRMAN
SMT. SHANTA SHAstry, MEMBER(A)

T.V.Kunhi Krishnan,
Lower Division Clerk,
National Film Archive of India,
Law College Road, Poona-4. ... Applicant

By Advocate Shri S.P.Saxena

V/s.

1. The Union of India Through
the Secretary,
Ministry of Information and Broadcasting,
Shastri Bhavan, New Delhi-1.
2. The Director,
National Film Archive of India,
Law College Road,
Poona - 411 004. ... Respondents

By Advocate Shri V.S.Masurkar

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

The grievance of the applicant in this case is that he has not been considered eligible for financial upgradation in accordance with the assured progression scheme. He has been informed accordingly on 6/10/2000 with reference to his representation dated 25/8/2000. He has been told that he would be eligible for one financial upgradation only when he completes 24years of regular service. Since he had already got one promotion from the cadre of skilled workman cum Film Checker to the cadre of LDC.

2. The applicant was initially appointed as a skilled workman cum Film Checker on daily wage basis from 13/4/76. Thereafter, he was appointed in the same post and in the same pay scale under Film Finance Corporation Ltd. on foreign service

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terms from 1/4/78. He was relieved on repatriation back to his place on daily wages basis from 30/4/79 for want of the post of film checker. He was re-appointed as Film Checker w.e.f. 1/11/80. Thereafter, he was appointed as LDC on purely temporary and on adhoc basis w.e.f. 5/3/81. This was against 10% of posts of LDC required to be filled up from Group D employees, as per recruitment rules for the post of LDC. The applicant passed the departmental typing test in 1984. It was decided to put the applicant to typing test again on 17/3/86. As the applicant did not agree to reappear for typing test for the second time, the applicant was reverted to the post of Film Checker. The applicant had filed OA 105/86 before the Tribunal challenging the order of reversion dated 31/3/86. The Tribunal by its judgement dated 12/10/87 directed the applicant to the post of LDC on temporary and adhoc basis. Thereafter the applicant was asked to give his willingness to write the departmental selection exam for regularising his adhoc posting as LDC. He again filed OA 699/88 in the Tribunal praying for regularisation in the post of LDC. The Tribunal vide its order dated 26/4/94 directed to regularise the applicant as LDC w.e.f. 17/10/84.

3. The respondents have opposed the claim of the applicant on the ground that the applicant had already got one promotion from the post of Film Checker to the post of LDC in the promotion quota from the departmental candidates. He is therefore not entitled to financial upgradation. He can therefore be given financial upgradation after he puts in 24 years of regular service and not after putting in 12 years of regular service.

4. We have heard the learned counsel for both the parties and have perused the relevant OM dated 9/8/99 on the ACP scheme.

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The scheme nowhere mentions that if an employee who has already got promotion is not entitled to the financial upgradation again after 12 years. The applicant has been regularised in the post of LDC in the year 1984 and has remained as LDC till date. Therefore, it can be said that he has stagnated in the post of LDC for more than 12 years. In our considered view therefore, the applicant needs to be considered for the financial upgradation from the post of LDC to the next higher scale. We therefore quash and set aside the impugned letter dated 6/10/2000 and direct the respondents to consider granting financial upgradation to the applicant w.e.f. 9/8/99 i.e. the date when the ACP scheme has come into force and when the applicant had already completed 12 years of regular service in the post of LDC with consequential benefits such as arrears due to difference in pay. The OA is allowed. No costs.

Shanta

(SMT. SHANTA SHAstry)
MEMBER(A)

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Agarwal
(ASHOK C AGARWAL)
CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

C.P. No. 61/2002
in
O.A. No. 885/2000.

Tuesday, this the 29th Day of October, 2002.

Coram : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Smt. Shanta Shastray, Member (A).

T.V. Kunhikrishnan,
L.D.C.,
National Film Archive of India,
Poona - 411 004. Applicant.

(By Advocate Shri S.P. Saxena)

Versus

1. Shri Pawar Chopra,
Secretary,
Ministry of Information and
Broacasting, Shastray Bhavan,
New Delhi - 110 001.
2. Shri L.K. Upadhyay,
Director,
National Film Archive of India,
Law College Road,
Pune - 411 009. Respondent/
Contemnors.

(By Advocate Shri V.S. Masurkar).

Order on Contempt Petition
{ Per : Justice Shri Birendra Dikshit, Vice Chairman }.

As the order stands complied with, we would not like to proceed any further against Respondent No.2. Notice issued is discharged and the proceedings are dropped. As no notice has been issued against Respondent No.1, no proceedings will be take up against him.

2. Contempt Petition stands disposed of, with no order as to costs.

Shanta J.

(Smt. Shanta Shastray)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman.

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