

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 721/2000.

Date of decision : 7.5.2004

Dr. S.P. Mehta

Applicant.

Shri G.S. Walia.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

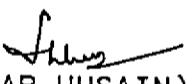
Shri R.K. Shetty

Advocate for
Respondents.

CORAM :

Hon'ble Shri Anand Kumar Bhatt, Member (A),
Hon'ble Shri Muzaffar Husain, Member (J),

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library.


(MUZAFFAR HUSAIN)
MEMBER (J)

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 721/2000.

Dated: 7.5.2004

Hon'ble Shri Anand Kumar Bhatt, Member (A),
Hon'ble Shri Muzaffar Husain, Member (J).

Dr. S.P.Mehta,
Pravara Medical Trust,
Loni - 413 736,
Dist : Ahmednagar,
Maharashtra.
(By Advocate Shri G.S.Walia)

...Applicant.

Vs.

1. Union of India, through
The Secretary,
Ministry of Defence,
New Delhi - 110 001.
2. Director General of Military Training,
Military Training Directorate
General Staff Branch,
Army Head Quarters,
D.H.Q.
New Delhi - 110 001.
3. Commandant,
National Defence Academy,
Khadakwasla,
Pune - 411 023.
(By Advocate Shri R.K.Shetty)

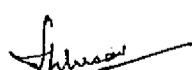
...Respondents.

: O R D E R :

{Muzaffar Husain, Member (J)}

The applicant has filed this application against the order dt. 28.10.1999 by which the case of the applicant for placement in the higher scale of pay has been rejected by the Army Headquarters.

2. The facts of the case, in brief, are that the applicant was appointed as Librarian Gr.I in the pay scale of Rs.350-800 at NDA, Khadakwasla. All the Librarians Grade II and III were working under him and he was the Head of Department. The pay scale of the Librarian Gr.II and III was revised to Rs.1400-2600



...2.

(revision of pay scale was done w.e.f. 24.7.1990) CR No.71 dt. 4.6.1976. The applicant retired on superannuation on 31.7.1992. The respondents revised the pay scale of Librarian Grade II and III but did not revise the pay scale of Librarian Gr.I. By an earlier order dt. 15.9.1983 the pay scale of Librarian Gr.I was upgraded to 1200-1900 which was also not implemented in the case of the applicant. The applicant submitted his representation under letter dt. 26.9.1994 and also 26.4.1999. The Respondents by their letter dt. 18.5.1999 informed the applicant that since he was not in service when the upgradation of the post was made effective w.e.f. 23.8.1994, his request cannot be granted. In the said communication it was also stated that he was not entitled to get promotion in the grade of Rs.3000-4500, as he did not have 8 years of service for promotion since he retired on 31.7.1992. It is thus clear that the applicant was not entitled to pay scale of Rs. 3000-4500. The applicant made further representation clarifying the position regarding his non-promotion to the pay scale of Rs.3000-4500 under his applications dt. 21.8.1999 and 20.9.1999. The case of the applicant was strongly recommended, but the Army Headquarters rejected the case of the applicant. The applicant states that he was entitled to selection grade in the pay scale of Rs.3700-5700 w.e.f. 1.1.1986 and pay scale of Rs.7300-7600 w.e.f. 24.7.1990. The denial therefore, is neither justified nor legal. Hence, this O.A.

3. The Respondents have opposed the OA by filing written statement. They have stated that the joined NDA on 5.9.1970 as Librarian Gr.I in the pay scale of Rs.350-800. His pay was fixed

Sharma

...3.

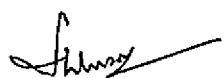
at Rs.650/- as per CDS (RP) Rules, 1973 in the scale of Rs.650-1200 w.e.f. 1.1.1973. He crossed EB at the stage of Rs.1000/- w.e.f. 1.9.1984. Thereafter, he got Ph.D in 1984. The pay scales were revised in 1.1.1986 and he was given the pay scale of Rs.2000-3500. He retired on superannuation in this scale on 31.7.1992.

4. It is further stated that the NDA Library was Cat.II Library, when Dr. SP Mehta retired in July, 1992. The NDA Library was upgraded from Cat. II to III w.e.f. August, 1994. The pay scales asked by Dr. SP Mehta came in operation only in September, 1997.

5. It has been further stated that CPR 8/91 is a report of review committee on Library staff and purview of Central Govt. para 2 clarifies that it is not necessary that Library will have all the grades, a Library may have one of these grades. Para 4.1 states that based on the categorisation of the Libraries so determined the designation and scale of pay of the Librarian In-charge of each category of Library. NDA Library was upgraded from Cat. II to Cat. III in August, 1994 only, whereas the applicant had retired on 31.7.1992.

6. The Learned Counsel for the applicant has contended that the applicant is entitled for pay scale of Rs.3700-5700 from 1.1.1986 and Rs.7300-7600 from 24.7.1990 and denial of the pay scale is neither justified nor legal and against the rules, violative of Articles 14 and 16 of the Constitution of India.

7. The Learned Counsel for the Respondents has contended that according to CPR 8/91, it is not necessary that the Library will have all the grades, a Library may have one of these grades.



...4.

According to CPR0 8/91 NDA Library was upgraded from Cat.II to Cat.III in August, 1994 only, whereas the applicant has retired on 31.7.1992. Therefore, he was not in service when the upgradation of the Librarian came into effect.

8. We have considered the rival contentions raised by the learned counsel for the parties and perused the materials placed on record. The applicant has prayed for granting of the pay scale of Rs.3700-5700 from 1.1.1986 and Rs.7300-7600 w.e.f. 24.7.1990. In this connection, the CPR0 8/91 is relevant. A copy of the same has been placed as Exhibit R-1. Para 2 of the CPR0 8/91 which is a report of the Review Committee on Library Staff which is placed as Exhibit R-1. Para 2 of the CPR0 8/91 clarifies that it is not necessary that Library will have all the grades. A Library may have one of these grades. Para 4.1 further states that based on the categorisation of the Library so determined the designation and pay scale of the Library In-charge of each category of the Library may be adopted. The letter issued by the Directorate General of Military Training, General Staff Branch, Army Headquarters, New Delhi to the Commandant, NDA, Khadakwasla on restructuring of the Library Staff, NDA, Khadakwasla. Para 3 of the letter reads as under :

"Ministry of Defence (Finance) had ruled that the promotion to the upgraded posts would be effective from the date from which the Library was upgraded. It is seen that the NDA Library was upgraded from Category II to III wef 23 Aug 94. However, Dr. Mehta retired on superannuation wef 31 Jul 92. Thus, Dr.Mehta was not in service when the upgradation of the Library came into effect. Therefore, the question of promoting Dr Mehta as Library and Information Officer does not arise. Further,

...5.



it is also seen that Dr. Mehta also did not have eight years of service in the grade Rs.2000-3500/- (pre-revised) required for promotion, as he was placed in this scale only wef 1.1.1986 and retired on superannuation wef 31 Jul, 1992."

Thus, it appears that the scale of pay of Librarian In-charge, NDA Library was upgraded from Cat.II to III in August, 1994 and according to the letter referred above, the Ministry of Defence (Finance) has ruled that the promotion to the upgraded post would be effective from the date from which the Library was upgraded i.e. 23.8.1994. It is not disputed that the applicant retired on superannuation w.e.f. 31.7.1992. Therefore, he was not in service at the time when the NDA Library was upgraded. It is seen that the applicant was given a pay scale of Rs.2000-3500 on 1.1.1986 and at the time of retirement on 31.7.1992 he had not completed 8 years service as required for promotion. In the circumstances, the applicant's prayer for granting of pay scale, as prayed cannot be accepted.

9. For the reasons stated above, we do not find any merit in the application. The O.A. is thus liable to be dismissed and is dismissed accordingly. No costs.


(MUZAFFAR HUSAIN)
MEMBER(J)


(ANAND KUMAR BHATT)
MEMBER (A)

B.