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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABADBENCH

AT HYDERABAD

O.A.No. 438/96

Date of Order : 21.8.98

BETWEEN :

Y.Somanna

.. Applicant.

AND

1. Union of India, rep. by its
Secretary, Ministry of Defence,
New Delhi.
 2. Chief of Naval Staff,
Naval Head Quarters, New Delhi.
 3. Flag Officer Commanding in Chief,
Eastern Naval Command,
Visakhapatnam.
 4. Admiral Superintendent, Naval Dock Yard,
Visakhapatnam.
- .. Respondents.

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Counsel for the Applicant

.. Mr.P.B.Vijaya Kumar

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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O R D E R

X As per Hon'ble Shri R.Rangarajan : Member (Admn.) X



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Mr.P.B.Vijaya Kumar, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents.

2. The applicant in this OA was appointed as Assistant Librarian in the scale of pay of Rs.1350-2200 under R-4 from 6.8.90. At that time he was having only a diploma in Library Science. By the O.M.No.F(19)(1)/IC 86 dated 24.7.90 a report of the Review Committee on Library Science under the purview of the Central Government was published. As per that the posts of Assistant Librarian were all upgraded in the grade of Rs.1350-2200 to Rs.1400-2600 who possessed the qualifications of B.L.Sc or Diploma in Library Science. On that occasion the applicant was not possessing degree in Library Science. However, he obtained that qualification in July 1992. Hence all the Assistant Librarian in the scale of pay of Rs.1350-2200 who were working on that day were promoted as Library and Information Assistant in the scale of pay of Rs.1400-2600 except the applicant.

3. The notification was issued on 7.4.93 (A-3) which is an enclosure to Daily Order No.98. As per that notification a post of Assistant Librarian unreserved was notified for filling up. The applicant had not applied for the same. The applicant submits that as he was already in the grade of Rs.1350-2200, he thought that it ^{was} not necessary ~~for~~ him to apply to the post of Assistant Librarian which is in the same grade. One Sri B.Venkat Reddy applied for the post and he was selected. At the time of selection he was a Graduate in the Library Science. Sri B.Venkat Reddy was appointed by the order Dt.16.3.94 to the post of Assistant Librarian. As he is a graduate in the Library Science though he was appointed in the scale of Rs.1350-2200 he was given the higher scale of Rs.1400-2600 by

redesignating the post of Assistant Librarian as Library and Information Assistant. The applicant submits that on the day when Sri B.Venkat Reddy was posted in the redesignated post of Assistant Librarian as Library and Information Assistant he was possessing the required qualification for posting ^{him} in the grade of Rs.1400-2600. But the applicant was not given that grade and his representation was rejected on the ground that he did not apply for the post of Assistant Librarian and hence he cannot be given that grade. It is stated in the impugned order dated 15.2.96 rejecting his application that there is no scope for deresignation of the applicant as Library and Information Assistant in the revised scale of pay of Rs.1400-2600 due to the fact that the individual was not in possession of the requisite qualification at the time of issue of the Ministry of the Finance O.M.No.F.(19)(1)/IC/86 dated 24.7.90.

4. This OA is filed praying for a direction to the respondents to extend the scale of Rs.1400-2600 to the applicant w.e.f. 7/92 or any other date as this ~~honourable~~ Tribunal may deem fit just and proper, by quashing all the proceedings leading upto and including the proceedings No.CE(NG)/2818/RC dated 15.2.96 of the 2nd respondent and also direct payment of difference of salary w.e.f. 7/92 together with interest.

5. A reply has been filed in this OA. It is an admitted fact that the applicant possessed the degree in Library Science w.e.f. July 1992. It is also admitted that Sri Venkat Reddy was posted due to open notification on 26.6.98 redesignating him as Library and Information Assistant in the scale of pay of Rs.1400-2600 even though the notification is for filling up the post of Assistant Librarian in the scale of pay of Rs.1350-2200. It is also stated in the reply that the recruitment of Sri Venkat Reddy was made in the old pay scale for eventual revision to the revised scales after all other seniors were placed in the

revised scale. This cannot be quoted as disadvantage to the applicant as he did not apply to the post when the advertisement to the recruitment was issued and is open to everybody to apply who fulfilled the qualification laid down.

6. The above submission of the respondents does not appear to reveal the mind of the respondents. It clearly states that the seniors in the grade should be given the scale of pay of Rs.1400-2600 before the juniors are posted to that grade provided they fulfill the necessary condition. In the next breath it is stated that the applicant had not applied to the post of Library Science. In our opinion both the above views are contradictory to each other.

7. The applicant was in the grade of Rs.1350-2200 when the notification for filling up the post of Assistant Librarian was issued by notification dated 7.4.93. When the applicant ^{was} ~~is~~ in that scale there ^{was} ~~is~~ no need for him to apply for that post once again. If the notification is for the post in the scale of pay of Rs.1400-2600 then if the applicant has not applied for that it may be shown against him as his lapse. In this connection the notification is only for the post of Assistant Librarian in the scale of pay of Rs.1350-2200.

If the applicant had not applied for that post in pursuance of that notification it cannot be said that the applicant ^{had} ~~failed~~ to take necessary action in this connection. Hence if the applicant had not applied for that post in pursuance of the notification dated 7.4.93 the same cannot be shown against him to deny the higher scale of Rs.1400-2600. When Sri VenkatReddy was posted as Assistant Librarian naturally he ^{was} ~~is~~ junior to the applicant as Venkat Reddy was posted in the scale of pay of Rs.1350-2200 and the applicant was already in that grade from

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an earlier date. Hence Sri Venkat Reddy cannot be treated as senior to the applicant in the scale of pay of Rs.1350-2200 and he is junior to the applicant in that grade.


8. The respondents in the reply had clearly stated that all the seniors were placed in the revised scales before granting the revised scales/ to Sri Venkat Reddy. We have already held the applicant is senior to Venkat Reddy in the scale of Rs.1350-2200 and hence he should have been promoted first to the post of Library and Information Assistant on the date when Sri Venkat Reddy was given the scale of pay of Rs.1400-2600. The non-grant of scale of Rs.1400-2600 to the applicant herein on the date Sri Venkat Reddy was given that scale appears to ^{be a} failure on the part of the respondents in view of their own admission in the reply.

9. In view of what is stated above the following direction is given :-

The applicant should also be given the scale of pay of Rs.1400-2600 from the date Sri Venkat Reddy was given that scale of pay and the applicant should redesignated as Library and Information Assistant ^{from that date and} he will stand senior to Sri Venkat Reddy in the cadre of Library and Information Assistant. Arrears if any arising out in pursuance of the above direction should also be paid to him.

10. Time for compliance is 3 months from the date of receipt of a copy of this order.

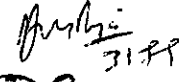
11. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

Dated : 21st August, 1998

(Dictated in Open Court)


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Copy to:

1. The Secretary, Min.of Defence, New Delhi.
2. Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. Flag Officer, Commanding in Chief,
Eastern Naval Command, Visakhapatnam.
4. Admiral Superintendent ~~xx~~, Naval Dock Yard,
Visakhapatnam.
5. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

7/9/98

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M(J)

DATED: 21/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

C.A.NO. 438/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

