

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 25/5/04

Original Application No. 484/2003

M.C. Sekra son of Shri Kedar Mal Sekra aged about 41 years, resident of 77/75, Agarwal Farm, Mansarovar, Jaipur. Presently working as Librarian, Central School No. 5, Mansarovar, Jaipur.

....Applicant

VERSUS

1. Union of India through Commissioner, Kendriya Vidyalaya Sangathan, (Hqrs.), 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Deputy Commissioner, Kendriya Vidyalaya Sangathan (Hqrs.), 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.

....Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER

PER HON'BLE MR. A.K. BHANDARI, MEMBER (ADMINISTRATIVE)

This OA has been filed to seek following reliefs:-

(i) That the respondents may be directed to allow the applicant senior scale Rs.6500-10500 w.e.f. 11.9.1998 instead of 23.6.2001 by modifying order dated 30.10.2001 (Annexure A/6) quo-applicant by quashing condition of inservice training programme imposed by the respondents with all consequential benefits including arrears of pay and allowances etc.

(ii) That the respondents be further directed not to treat the applicant as teaching staff and allow benefit as allowed to employees other than teaching staff under ACP Scheme.

- (iii) Any other order/direction of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- (iv) That the cost of this application may be awarded.

2. The brief facts of the case as stated in the application are that applicant a Librarian was appointed on 11.9.1986 in the scale of Rs.1400-2600 revised to Rs. 5500-9000 w.e.f. 1.1.1996 on the recommendations of the Fifth Pay Commission and is drawing such pay. In 1987, pay scales of School teachers were revised and senior scale was ordered to be given on completion of twelve years of service and Selection scale after completion of another twelve years of service in Senior Scale vide order dated 12.8.1987 (Annexure A/2). That in above letter dated 12.8.1987, it is further provided that Sr./Selection scale are to be allowed subject to following condition:-

"Every Teacher would be required to participate in an inservice training programme of at least three weeks duration before he/she crosses an EB or is promoted to senior scale or selection scale i.e. once in every six years, provided that where arrangements for such training cannot be made, the appointing authority may exempt a category of teachers for a specific period of time."

It is stated that although the applicant is holding the post of Librarian yet the respondents are treating him as teaching staff and applying the above pre-condition of passing inservice training before processing his case for crossing of EB or promotion to Sr. scale. That due to this pre-condition, the applicant appeared for such training from 1.6.1991 to 21.6.1991 and was allowed to cross Efficiency Bar w.e.f. 1.9.1993 which was unnecessary because he is not of the category of teaching staff but a Librarian. The respondents ought to consider his candidature for promotion in Sr. scale after completion of 12 years of service, which he completed on 11.9.1998. That the applicant due to domestic problems could not attend trainings held in 1998, 1999 and 2000. That in 1999, Govt. of India promulgated Scheme of ACP under which

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staff of Central Govt. have been granted financial upgradation after completion of 12 years and 24 years of service and the same has been adopted by the KVS vide order dated 29.12.2000 (Annexure A/4). Since the applicant is holding the post of Librarian which is not in the category of teaching staff, he should get the benefit of financial upgradation under ACP Scheme but the same has been denied on the ground that the applicant is in the category of teaching staff. In other words, he is not getting the Sr. scale without passing the training programme and is also being denied the benefit of ACP Scheme on completion of 12 years of service because he is being considered as teaching staff by the respondents. In the circumstances, the applicant was forced to appear for the inservice training programme in the year 2001 and Sr. scale was allowed to him w.e.f. 23.6.2001 i.e. next date of completion of inservice training programme vide order dated 30.10.2001 (Annexure A/6). In this order, it is mentioned that the applicant did not take part in inservice training programme in last six years and has completed the same after 12 years. Hence the Senior Scale has been given from the next date of completion of training. The applicant further submits that he submitted his option for pay fixation from the date of next increment as desired vide order dated 30.10.2001 (Annexure A/6) and simultaneously requested that he may be allowed Sr. scale w.e.f. 11.9.1998 instead of 11.6.2001 (Annexure A/1) and that passing of the inservice training programme in the year 1991 was not necessary because he was a non teaching staff. However, the benefit of financial upgradation under Acheme Scheme is applicable to him from 9.8.1999 which is being denied. Hence this OA.

2.1 In the grounds action of the respondents has been branded as arbitrary, illegal and violative of provisions of constitution inasmuch as they should not have insisted on inservice training programme as mentioned above and as he is a Librarian, and he should have been given benefit of ACP Scheme adopted by the KVS for non teaching staff in the year 2000.

3. The respondents have given detailed reply. In it, it is stated that

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allowance. Therefore, they are treated at par with teaching staff and not as non teaching staff.

3.1 All the grounds taken by the applicant are replied and the allegation of arbitrariness of illegality and respondents action being violative of constitution of India are denied on the basis of above rules.

4. The applicant has submitted a detailed rejoinder to the reply and in it, he has keenly relied upon KVS letter dated 30.1.1996 on the subject 'Annual Request transfer in respect of Teaching & Non Teaching Staff of KVS for the year 1996-97- application regarding (Annexure A/7) and letter dated 14.8.2002 in which Librarians has been shown as non teaching staff. In Annexure A/9 dated 15.11.2002 also, which is staff sanction order, Librarian has been shown as non teaching staff. On the basis of these, he claims that his prayer in the OA be accepted.

5. Parties were heard at length during arguments. Learned counsel for the applicant asserted that Librarian is a non teaching staff category, as is clear from various circulars containing statutory rules promulgated after the acceptance of the recommendations of the Fourth Pay Commission and even though they are getting teaching allowance, they have not been considered as teaching staff in the latest circulars dated 30.1.1986 and 14.8.2002 on the subject of transfer. Therefore, insistence upon participation in inservice training programme for crossing of EB and before grant of sr./selection scale for non teaching staff is arbitrary. Since librarians are non teaching staff in terms of the instant rules, they should not be denied the benefit of ACP.

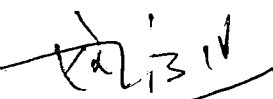
6. On the contrary, learned counsel for the respondents insisted that even the post of Librarian is of teaching staff category in terms of circulars dated 12.8.1987, Annexure R/1 (also annexed by the applicant as Annexure A/2). The applicant was also required to pass the training as per this order. He appeared for the said training in 1991 on the basis of which, he crossed the EB, and further increments were given. But he did


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not take part in such training programme in 1999-2000. However, as soon as he cleared the training in June 2001 he was granted Sr. scale from 23.6.2001. Since he did not participated in the mandatory training in 1999-2000, his prayer for grant of Sr. scale from 1998 cannot be granted. Regarding application of ACP Scheme, it is clarified that in the CCS(Revised Pay) Rules, 1997 (Annexure R/6), the pay of Librarians at the entry, Sr. scale and Selection scale have been mentioned at sl. no. 5 under Group 'C' under heading 'Teaching Staff of KVS.' Therefore, ACP Scheme which is for non teaching staff cannot apply to applicant. It is further stressed that for the relief pertaining to 1998 during the year in which the applicant is seeking relief of Sr. scale and year 2000 from which he is asking benefit of ACP Scheme, the statutory rules of 1997 (Annexure R/6) are applicable and on this ground also, the application deserves to be dismissed.

7. We have given careful consideration to the pleadings in this case and have come to the conclusion that on the basis of statutory rules, promulgated after Fifth Pay Commission, post of Librarian falls in the category of teaching staff. As per the decisions of Governors of KVS taken on 1.3.200-1, ACP was adopted for the non teaching employees w.e.f. 12.10.2000 but the benefit of the same could not be given to the applicant which is by all accounts drawing the benefit of teaching allowance and falls under the classification of teaching staff as per Appendix 9 of the Accounts Code for the Kendriya Vidyalayas. Therefore, the decision of the respondents in not granting the benefit of ACP Scheme is justified. Similarly, the denial of Sr. scale to the applicant till he participated in inservice training programme is also justified as per rules.

8. Therefore, the application is dismissed as being devoid of merits. No costs.

  
(A.K. BHANDARI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)

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