

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

(O. APPLICATION NO.: 263/06)

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
<u>26-7-2007</u>	<p>Mr. Anupam Agarwal counsel for applicant Mr. Anand Mathur proxy counsel for Mr. Kapil Mathur counsel for respondent</p> <p>Heard. The matter has been disposed of by a separate order.</p> <p>(J.P. Shukla) Administrative Member</p> <p>(Kuldip Singh) Vice Chairman</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 26th day of July, 2007

ORIGINAL APPLICATION No.263/2006

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. J.P.SHUKLA, ADMINISTRATIVE MEMBER

V.C.Gupta,
s/o Shri Omprakash Gupta,
aged about 58 years,
r/o B-132, Vikas Marg,
Panchsheel, Ajmer,
Presently working as Lecturer,
Regional Institute of Education,
NCERT; Ajmer.

.. Applicant

(By Advocate: Shri Anupam Agarwal)

Versus

1. Union of India through the Secretary, National Council of Education Research and Training (NCERT), Shri Arbindo Marg, New Delhi.
2. The Principal, Regional Institute of Education, NCERT Captain Durga Prasad Marg, Pushkar Road, Ajmer.

.. Respondents

(By Advocate: Shri Amit Mathur, proxy counsel to Shri Kapil Mathur)



O R D E R (ORAL)

The applicant has filed this OA seeking following reliefs:-

- i) After calling the entire record relating to the issue and perusing the same the respondents should be directed to treat the applicant as lecturer at par with other similarly situated person and
- ii) They should be directed to extend all the benefits of the post of lecturer such as career advancement etc. and advance increment for Ph.D. to the applicant since his absorption till date.
- iii) That arrears should also be paid to the applicant alongwith interest @ 18% from the date it became due till paid.
- iv) That respondent should be directed to grant 1st financial upgradation as per ACP scheme on completion of 12 years of service alongwith arrears with interest @ 18 p.a.
- v) Any other relief which this Hon'ble Tribunal deems fit in the facts and circumstances of the case should be granted. Cost of the application should also be granted to the applicant.

2. Facts, as alleged by the applicant in brief, are that the applicant was initially appointed as Post Graduate Teacher (PGT) at Demonstration School, Regional Institute of Education (RIE), Ajmer. From where he was selected and appointed as Assistant Field Advisor (AFA) and joined his duties in the Office of Field Advisor, NCERT, Srinagar. In the year 1996 he was transferred to Ajmer and was assigned the duties of Lecturer. He worked as such till the year 2000. From where he was transferred to Srinagar as Field Advisor. The respondents again transferred the applicant alongwith his post to the RIE, Ajmer vide order dated 27th/28th April, 2001 shifting all the staff

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alongwith their posts to RIE Ajmer. The applicant further submits that since transfer of the applicant he is discharging the duties of Lecturer, but he is neither being treated as Lecturer nor the benefit of the post are being extended to him.

It is further stated that after closure of the field offices it was the duty of the respondents to absorb the applicant in the existing cadre. In the similar circumstances, Shri N.C.Dhotia and Shri N.T.Khobrangade has already been converted and absorbed as Lecturer through interview. But despite representations in this regard the applicant is neither being converted nor absorbed in the existing cadre. In the Similar circumstances person holding the post of Assistant Controller of Examination in Navodayala Vidyalaya Cell, Demonstrator in Regional Institute and Senior Research Analyst were made as Lecturer and allowed the benefit of the post.

It is also stated that the applicant has not been given the benefit of Assured Career Progression (ACP) Scheme as the applicant was entitled for the same after completion of 12 years of service but the same has been denied to him despite of satisfactory services for no justified reason. As per the ACP scheme the respondents were under obligation to call the meeting of the Screening Committee within a month from the date of issue of the instructions to consider the cases already matured upto 31st March, 2000. In



spite of this, the applicant has not been extended the benefit of the ACP Scheme. It is further stated that the name of the applicant is regularly appearing in all the lists of Lecturers issued from time to time but still he is not being extended the benefit of the post. So it is prayed that the OA be allowed.

3. The respondents are contesting the OA. They have taken a stand that the applicant is working on the post of AFA and he can neither be treated as Lecturer nor he can be absorbed as Lecturer. The respondents further stated that recruitment to the post of Lecturer is through direct recruitment ^{by way of} ~~in the~~ open competition and the applicant is at liberty to compete the selection when it is held. It is further stated that ~~since~~ the applicant had applied earlier but since he does not fulfill the qualification for the post of Lecturer so he was not called for interview. The respondents still maintains that the applicant does not fulfill the qualification for the post of Lecturer, therefore, he cannot be absorbed or treated as Lecturer.

The respondents also deny that the post of AFA has been abolished and respondents are under an obligation to absorb the applicant in the post of Lecturer.

The respondents also pleaded that as far as ACP scheme is concerned, the applicant has already been

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given one promotion, so he is not entitled to get benefit under this Scheme because from the post of PGT he has been promoted as AFA. The respondents further stated that recruitment to the post of AFA is also either by way of transfer or by promotion amongst PGTs. So the applicant has been given one promotion.

4. We have heard the learned counsel for the parties and gone through the record.

5. At the outset, we may mention that the applicant is insisting that the post of AFA has been abolished, therefore, the respondents are under obligation to treat him as Lecturer or promote him as Lecturer. On the contrary, the respondents have stated that the applicant alongwith certain other persons has been transferred to Ajmer alongwith posts and the posts have not been abolished, though further recruitment is not being made and it is a dying cadre, so it cannot be said that the post of AFA is abolished.

We have also put a query to the learned counsel for the applicant to show us any document that the post of AFA has been abolished, but the learned counsel was unable to show us any document that the post of AFA has been abolished. On the contrary, the letter transferring the applicant to Ajmer goes to show that the applicant has been shifted alongwith the

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post of AFA, which would show that the post is still available.

As regard the relief under ACP scheme is concerned, first of all we may mention that grant of relief of ACP scheme is in the nature of multiple ^{claims in same OA} relief and the same cannot be made in the present OA but since the learned counsel for the applicant submits that the applicant is likely to be superannuated in near future, so we are not directing him to file a separate OA for the same and ^{the} ~~that~~ relief cannot be considered in the present OA. In this regard, the learned counsel for the applicant referred to us Ann.A1 whereby the applicant is stated to have been appointed as AFA and after referring to Ann.A1 the learned counsel for the applicant argued as if the applicant had been appointed as direct recruit to the post of AFA, but the learned counsel for the respondents has referred to the recruitment rules which has been reproduced in the additional affidavit showing method of recruitment to the post of AFA. According to the recruitment rules, 50% posts can be filled from amongst the Lecturers in the Council by transfer and 50% from amongst the PGTs of the Demonstration School, by promotion through DPC/Selection Committee based on merit-cum-seniority. The learned counsel for the respondents submitted that there is no scope of direct appointment as AFA and in fact it is a promotion. When we pointed out to the

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learned counsel for the respondents that language of the order Ann.A1 show that as if the applicant was appointed directly to the post of AFA, to that the learned counsel replied that there can be no direct appointment to the post of AFA and if that is so, it may ^{be} ~~dehors~~ the rules and since the applicant was PGT and was promoted to the post of AFA, so claim of first upgradation under ACP does not arise. In our view also, since the applicant has got one promotion, so he cannot claim first upgradation.

6. In view of aforesaid, we are of the considered opinion that the applicant is not entitled to any relief and the OA is, therefore, dismissed with no order as to costs.


(J.P. SHUKLA)

Administrative Member


(KULDIP SINGH)

Vice Chairman

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