

**Central Administrative Tribunal
Principal Bench**

OA No. 1614/2014

Order reserved on: 28.07.2016
Order pronounced on: 26.08.2016

Hon'ble Mr. Justice M.S.Sullar, Member (J)
Hon'ble Mr. V. N. Gaur, Member (A)

S.V.Vageesha,
s/o Sh. A.M.Veerabhadra Swamy,
r/o E-8, G.B.Pant Polytechnic Campus (Old)
Okhla, Phase-III, New Delhi-110020.
Aged around 50 years (Lecturer).

- Applicant

(By Advocate: Mr. Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Sachivalaya, Players Building,
I.P.Estate, New Delhi-2.
2. Principal Secretary/Secretary
(Technical Education)
Directorate of Training & Technical Education,
GNCT of Delhi
Muni Maya Ram Marg,
Pitampura, Delhi-88.
3. Selection Committee
Through its Chairman
Principal, GB Pant Govt. Engineering College
Okhla Industrial Estate, Phase-III,
New Delhi-110020.
4. All India Council for Technical Education,
Through its Secretary,
7th floor, Chanderlok Building,
New Delhi.

- Respondents

(By Advocate: Mr. B.N.P.Pathak,
Ms. Manpreet Kaur and Ms. Puja Sarkar for
Mr. Anil Soni)

ORDER

Hon'ble Mr. V.N.Gaur, Member (A)

The applicant has filed the present OA with the following prayer:

“(a) Quash and set aside orders dated 15/04/2013, order dated 21/05/2013 and the minutes of the selection committee (qua the Applicant) to the limited extent as mentioned in Para 1 of the OA being prejudicial to the Applicant (not counting his past service for the purposes of Career Advancement Scheme) without affecting 24 lecturers whose previous service has been counted for the purposes of CAS, and

(b) Direct the respondents to count the previous continuous service of Applicant (w.e.f. 25/08/1986 to 22/11/1995) rendered by him as a Lecturer (Civil Engineering) in Bapuji Institute of Engineering & Technology and in Bapuji Polytechnic for the purpose of Career Advancement Scheme as stipulated in AICTE notification dated 20/09/1989, notification 30/12/1999 r/w clarification dated 10/09/1993 r/w clarification dated 10/09/2003, and

(c) Direct the respondents to issue/pass necessary consequential order qua the Applicant for pre-poning his Senior Scale, Selection Grade etc. in terms of AICTE notification dated in AICTE notification 20/09/1989, notification 30/12/1999 r/w clarification dated 10/09/1993 r/w clarification dated 10/09/2003, and

(d) Direct the respondents to accord all the consequential benefits viz. Arrears of salary, compound interest @ 18% p.a. on arrears of salary, promotions, seniority etc. to the Applicant, and

(e) Direct the respondents to consider the claim of the Applicant in terms of the notifications issued prior to 27/05/2013. Or in the alternative quash and set aside order dated 27/05/2013 being violative of Article 14 of the Constitution of India, and

(f) Award cost in favour of the Applicant and against the respondents, and/or

(g) pass any further order, which this Hon'ble Tribunal may deem fit, just equitable in the facts and circumstances of the case.”

2. The brief facts of the case, as relevant in the context of the present controversy, are that the applicant was appointed as

Lecturer (Civil Engineering) in G.B. Pant Polytechnic, Delhi through UPSC w.e.f. 27.11.1995. He was granted Lecturer (Senior Scale) on 27.11.2000 and Lecturer (Selection Grade) on 27.11.2005. Prior to joining G.B. Pant Polytechnic, Delhi, the applicant had worked as Lecturer on consolidated salary in Bapuji Institute of Engineering and Technology (BIET) from 25.08.1986 to 30.11.1987. From 01.12.1987 to 14.08.1992 he was on regular scale of Lecturer as prevalent at that time in the State of Karnataka. From 10.08.1992 to 22.11.1995 he worked as Lecturer in regular scale in Bapuji Polytechnic, Shabanpur, Karnataka. The applicant acquired M.Tech. degree in the year 1992. The applicant made several representations to the respondents to count his past service as Lecturer in BIET and Bapuji Polytechnic for the purpose of grant of senior scale and selection grade under the Career Advancement Scheme (CAS) notified by AICTE, first, on 20.09.1989 and clarified and amended by subsequent notifications. The representation of the applicant has been rejected by the respondents.

3. Learned counsel for the applicant submitted that the AICTE had introduced the CAS in the year 1989 which was revised on 10.09.1993. This notification provides that for counting of previous service the following conditions have to be fulfilled:

“Counting of Previous Service

(A) Previous service without any break as a Lecturer or equivalent in a university, college, national laboratory or other scientific organisations (CSIR, ICAR, DRDO, USC, etc.) and as a

UGC Research Scientist should be counted for placement of Lecturers in Senior Scale/Selection Grade provided that:

- (a) the post was in an equivalent grade/scale of pay as the post of Lecturer;
 - (b) the qualifications for the post were not lower than the qualifications prescribed by the Govt. for the post of Lecturer;
 - (c) the Lecturers concerned possessed the minimum qualification prescribed by the Govt. for appointment as lecturer;
 - (d) the post was filled in accordance with the prescribed selection procedure as laid down by the competent authority.
 - (e) the appointment was not adhoc or in a leave vacancy of less than one year duration.
- (B) No distinction should be made with reference to the nature of management of the institution where previous service was rendered (private/local body/Government) if the above criteria are satisfied.”

4. The respondents have rejected the claim of the applicant primarily on two grounds that he did not possess the required qualification and that he was not in the equivalent scale. The applicant possessed the minimum essential qualification of BE (Civil) with distinction at the time of joining. He also obtained M.Tech. degree with distinction while serving the previous institutions. With regard to the equivalence of scale, learned counsel submitted that the grade of Lecturer in Delhi Government was Rs.2200-4000 at the time the applicant joined at G.B.Pant Polytechnic, while the Karnataka Government had prescribed the scale of Rs.1900-3650 for the Lecturers. The letter issued by AICTE on 30.12.1999 gave discretion to the State Government to implement the revised pay scales prescribed by the AICTE from a date later than 01.01.1999 and/or implement pay scales other than

given in that notification but which are not higher than the pay scales given in the tables. However, the scheme to be implemented by the State Government should be furnished to the AICTE for its approval. The Karnataka Government, therefore, in its wisdom decided to give the scale of Rs.1950-3950. A slight difference in the scale cannot lead to a conclusion that the two lecturerposts were not equivalent. Quoting Hon'ble Supreme Court in **SI Roop Lal and another vs. Lt. Governor through Chief Secretary, Delhi and others**, (2000) 1 SCC 644, learned counsel submitted that equivalence of two posts is not judged solely by equal pay. Other factors like nature of duties, responsibilities, minimum qualifications etc. have also to be taken into consideration. The Hon'ble Supreme Court way back in 1968 in the case of **Union of India vs. P.K.Roy**, AIR 1968 SC 850, laid down the criteria to decide the equivalence of two posts. These were: (i) the nature and duties of a post; (ii) the responsibilities and powers exercised by the officer holding a post, the extent of territorial or other charge held or responsibilities discharged; (iii) the minimum qualifications, if any, prescribed for recruitment to the post and (iv) salary. It can be seen that the salary of a post for the purpose of finding out the equivalency of posts is the last of the criteria. In the present case it is not the case of the respondents that the applicant was doing a job which was different from the job of the lecturer of an Engineering College under Delhi Government. The applicant had

served first in an Engineering College and later in a Polytechnic, and AICTE does not make any distinction in the matter of pay and status of the Lecturer of an Engineering College and a Polytechnic. The respondents had considered a number of other cases along with that of the applicant and allowed many of them by giving benefit of past service but the same was denied to the applicant in an arbitrary manner.

5. Learned counsel for the respondents, on the other hand, submitted that the applicant was actually appointed as a Lecturer on consolidated salary basis, and thereafter as a Lecturer in BIET in the scale of Rs.1050-60-1950 and again in the scale of Rs.1900-50-3650 in the Bapuji Polytechnic. It can be seen that the applicant cannot claim parity with the scale of Lecturer of Rs.2200-4000 as prescribed in the AICTE guidelines. The respondents have, therefore, not acceded to his request for granting the benefit of his past service. Learned counsel also pointed out that according to the AICTE guidelines the applicant should have held an equivalent post of Lecturer without any break and the applicant does not fulfil this condition as already mentioned.

6. Learned counsel for the applicant re-joining the argument, submitted that though the applicant had shifted from one institution to another, these institutions were under the same management and the post of Lecturer carried the same pay scale.

The apparent difference between the pay scales in BIET and Bapuji Polytechnic are because of the revision of the scales at that time.

7. We have heard the learned counsel for the parties and perused the record. The basic question involved is the equivalence of the post of Lecturer under Delhi Government in the scale of Rs.2200-4000 and Karnataka Government in Rs.1950-3950. Hon'ble Supreme Court in **SI Roop Lal** (supra) quoting from **P.K.Roy** (supra) had mentioned four factors that ought to be considered while deciding the equivalence of posts. These are: (i) nature and duties of posts (ii) responsibilities and powers exercised by officer holding a post; (iii) the minimum qualification prescribed for the posts and (iv) salary.

8. It is not the case of the respondents that the institutions where applicant taught were of different standards or the courses which he taught in those institutions were different from the ones in G.B.Pant Polytechnic, Delhi. There is also no mention even in the counter reply as to how the applicant did not possess the prescribed educational qualification. Though there is a reference in the counter reply to certain exemptions given in the AICTE notification, but how it affected the applicant, has not been clarified by either of the parties. From the additional information supplied by the learned counsel for the applicant, as directed on 28.07.2016, it is observed that the scale of pay prevalent in Delhi was Rs. 2200-4000 during the period 01.01.1986 to 31.12.1995. The Karnataka

Government with the approval of AICTE, had granted the scale of Rs.1900-3650 with effect from 01.01.1989 to those lecturers who possessed graduate qualification. This was made applicable to BIET also w.e.f. 01.01.1986. Though the applicant has claimed that he has been in the equivalent scale of Lecturer from the time AICTE scale of Rs.1900-3650 was implemented w.e.f. 01.01.1989, in the additional information submitted by the learned counsel for the applicant, the following statement has been made:

“The Bapuji Institute of Engineering & Technology granted the pay scale of Rs.1900-3650 w.e.f. 01/01/1989 only to those Lecturers who were possessing Graduate Qualification. It is submitted that the Applicant possessed M.Tech. (Geo Technical Engineering) Degree in August, 1992 and thereafter immediately he was transferred to Bapuji Polytechnic where the pay scales of Rs.1900-3650 were given to the Lecturers (the Applicant). It is relevant to mention herein that AICTE has given approval to State of Karnataka to grant the pay scale of Rs.1900-3650 to the Lecturers.”

9. The above statement implies that when the applicant acquired M.Tech. degree in August, 1992 he was transferred to Bapuji Polytechnic as Lecturer in the pay scale of Rs.1900-3650. Apparently he was in a lower scale in BIET. No positive statement has been made that the applicant was given the scale of Rs.1900-3650 while holding the post of Lecturer in the BIET. The averments on page 3-4 of the OA further suggest that the scale of Rs.1900-3650 was initially given only to those who possessed post-graduate degree and in that case, the applicant would have been in a lower scale. The contention of the applicant is that since he possessed the minimum qualification prescribed for lecturers in Delhi

Government while working in BIET, his post in BIET should be considered equivalent to the post of lecturer in Delhi Government. This logic is not convincing since the scale of the applicant, according to his own admission, was two levels below the corresponding scale in Delhi Government. It also explains as to why the applicant was shifted to Bapuji Polytechnic immediately after obtaining M.Tech. degree in the scale of Rs 1900-3650. We, however, can safely conclude that notwithstanding the difference, the scale of Rs.2200-4000 and Rs. 1900-3650 can be considered equivalent in status.

10. The next question arises whether the applicant is eligible to get the benefit of past service in BIET and Bapuji Polytechnic. The AICTE notification dated 10.09.1993 provides that “previous service without any break as a Lecturer or equivalent in a university, college, national laboratory or other scientific organisations (CSIR, ICAR, DRDO, USC, etc.)” has to be considered for the purpose of counting of previous service. The crucial word is that previous service should be without any break as a Lecturer. In the present case, the applicant first served as a Lecturer on consolidated pay basis from 25.08.1986 to 30.11.1987, thereafter from 01.12.1987 to 14.08.1992 on a regular, but lower scale in BIET, and from 10.08.1992 to 22.11.1995 in Bapuji Polytechnic. There is slight overlapping between the period which he served at BIET and that at Bapuji Polytechnic since he is shown to have worked at BIET till

14.08.1992, at the same time he has joined Bapuji Polytechnic which is prior to his completion of tenure at BIET. However, leaving it at that, it is not disputed that at least from 10.08.1992 to 22.11.1995 the applicant was working at Bapuji Polytechnic, Shahbanpur uninterruptedly in the scale of Rs 1900-3650. We, therefore, do not find any reason as to why the respondents should not consider giving the benefit of continuity of service w.e.f. 10.08.1992 in terms of the CAS as revised from time to time.

11. In the light of the aforesaid discussion and the reasons, the OA is disposed of with a direction to the respondents to grant benefit of past service of the applicant while working continuously in Bapuji Polytechnic from 10.08.1992 and consequential benefits in terms of granting of senior scale and selection grade. Considering the facts and circumstances of this case, we do not consider it appropriate to grant interest on the arrears that may be payable to the applicant. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

(V.N. Gaur)
Member (A)

(Justice M.S.Sullar)
Member (J)

‘sd’

August 26, 2016