

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 1141/2015

Reserved on : 28.03.2016
Pronounced on : 30.03.2016

**HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)**

Jaipal R. Bhowate,
Lecturer (Computer Application),
S/o Shri Raghunath H. Bhowate,
R/o Quarter No. 23, Type-III,
IIT Staff Quarters, Vivek Vihar,
Delhi-110095.
Aged around 45 years.

Presently posted at:
Integrated Institute of Technology,
Dwarka, Sector-9, Delhi. .. Applicant

(By Advocate : Shri Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi,
Through it's Chief Secretary,
Delhi Sachivalaya, Players Building,
I.P. Estate, New Delhi-2.
2. Principal Secretary/Secretary,
(Technical Education),
Department of Training & Technical Education,
GNCT of Delhi,
Muni Maya Ram Marg,
Pitam Pura, Delhi-88.
3. Deputy Director (E-1),
Department of Training & Technical Education,
GNCT of Delhi,
Muni Maya Ram Marg,
Pitam Pura, Delhi-88.

4. Principal,
IIT, Dwarka, Sector-9,
New Delhi-110077. .. Respondents

(By Advocate: Shri Vijay Kumar Pandita)

ORDER

By Hon'ble Mr. P.K. Basu

The applicant was appointed through UPSC as Lecturer (Computer Application) in the Directorate of Training and Technical Education (DTTE) on 12.04.2001.

2. The All India Council for Technical Education (AICTE) guidelines dated 30.12.1999 provides for grant of Lecturer (Senior Grade) and Lecturer (Selection Grade). The said guidelines also provides for counting of previous continuous service for the purpose of Career Advancement Scheme (CAS), which results in preponement of the date of grant of senior scale and selection grade. It is stated by the applicant that the said guidelines were adopted by the respondents vide Cabinet decision on 12.12.2003.

3. The applicant was granted Lecturer (Senior Scale) w.e.f. 12.04.2007 vide order dated 29.07.2009. This was preponed to 12.04.2006 vide order dated 05.06.2012 of the DTTE. The senior scale granted to the applicant was preponed to 01.11.2002 vide order dated 21.05.2013, after considering the benefit of his past service. By the same order, seven other Lecturers were given similar

benefit of past service. In fact, based on this order, the applicant's pay was also fixed vide order dated 13.06.2013.

4. This O.A. has been filed challenging the order dated 21.05.2013 to a limited extent that instead of preponing the date of grant of Lecturer (Senior Scale) to 01.11.2001, it has been preponed to 01.11.2002. The applicant states that whereas the respondents have counted his previous continuous service correctly while preponing the date of Lecturer (Senior Scale), the respondents ignored the order dated 05.06.2012, whereby the Lecturer (Senior Scale) qua the applicant was preponed from 12.04.2007 to 12.04.2006. In this background, this O.A. has been filed seeking the following relief(s):

- “(a) Quash and set aside/revisit the order dated 21.05.2013 to limited extent (as mentioned in Para 1 of the OA) in as much as the date of preponement of Lecturer (Senior Scale) qua the applicant may be fixed as 01.11.2001 instead of 01.11.2002. And
- (b) Direct the respondents to pre-pone the Lecturer (Senior Scale) and Lecturer (Selection Grade) qua the Applicant w.e.f. 01.11.2001 and 01.11.2006 respectively with all consequential benefits viz. PB-IV w.e.f. 01.11.2009, arrears of salary, compound interest @ 18% p.a. on arrears of salary, promotions, seniority etc. And
- (c) Award cost in favour of the Applicant and against the respondents. And/or
- (d) Pass any further order, which this Hon'ble Tribunal may deem fit, just equitable in the facts and circumstances of the case.”

5. According to the learned counsel for the applicant, there has been inadvertent error in preponing the date of grant of Lecturer (Senior Scale) to 01.11.2002 and it should be rightfully corrected to 01.11.2001 giving benefit of the order dated 05.06.2012. In fact, it is stated that three other Lecturers, who were covered vide order dated 21.05.2013, viz. Ms. Satyawati, Shri T. Vijay Kumar and Shri A. Subramanium have already been granted such benefit. It is only the applicant who has been denied this benefit.

6. The respondents in their reply have raised the question of maintainability in view of Rule 10 of Central Administrative Tribunal (Procedure) Rules, 1987, claiming that the applicant has sought plural remedies through this OA.

7. The learned counsel for the respondents states that AICTE guidelines dated 20.09.1989 requires that for appointment as a Lecturer, the incumbent must have qualified in an All India Examination such as GATE or equivalent. The applicant had served in Parshvanath Institute before joining DTTE and on an enquiry it is found that no prescribed procedure was followed by the previous Institute while making the appointment of the applicant. It is stated that at the time of his appointment in the previous Institute, the AICTE guidelines dated 20.09.1989 were in force and GATE or equivalent was one of the essential qualification for the post of

Lecturer. The respondents state that as per their record, the applicant does not possess the GATE or equivalent qualification. In fact, after the order dated 21.05.2013 was issued, the department received various complaints against the above order and, therefore, with the approval of Lt. Governor, Delhi, the respondents have constituted a fresh Screening Committee to review earlier recommended cases and this Committee is reviewing all such cases including the applicant's case. It is in this background that the further action has not been taken pending such review.

8. Heard the learned counsel and perused the pleadings.

9. We dismiss the argument of the respondents that the applicant has sought plural remedies through this OA., as we do not see how the applicant's prayer can be considered as plural remedy. All he is asking for is correction of date from 01.11.2002 to 01.11.2001 and consequential benefits.

10. The issue involved is counting of past service as per AICTE guidelines and as stated by the respondents in their counter affidavit, the AICTE guidelines dated 30.12.1999 at para 9.2 provides as follows:

“9.2 Counting of Service outside the Institution:

Previous continuous service , as a Lecturer or equivalent in college, national laboratory, or other scientific organizations such as CSIR, ICAR, DROD etc., or in any public sector industrial undertaking may be counted for placement of Lectures in senior scale/ selection Grade provided that :

- (a) The posts were in an equivalent grade/ scale of pay as the post of a Lecturer;
- (b) The qualifications for the posts were not lower than the qualifications prescribed by ACITE for the post of Lecturer;
- (c) The posts were filled in accordance with the prescribed selection procedures as laid down by the Board of Governors/ institutions regulations/ Directorate of Technical Education / State Government / Central Government;
- (d) Ad hoc service / service in contract appointment / leave vacancy was of a continuous duration of not less than one year and further provided that :
 - (i) The incumbent was appointed on the recommendation of a duly constituted selection Committee; and
 - (ii) The incumbent was selected to the regular post in continuation of the ad hoc /contract/temporary appointment.
- (e) The concerned Lecturer has possessed all the minimum qualifications prescribed by ACITE for appointment as Lecturers.”

11. The Department has now detected that the qualification for the post of Lecturer includes essential qualification of GATE or equivalent, whereas as per record the applicant does not possess the GATE qualification neither his selection was made through a proper procedure by the previous institution. In fact, the applicant's service rendered in Usha Mittal Institute of Technology, Mumbai was for a period of less than one year. Therefore, *prima facie*, the applicant does not satisfy conditionalities of para 9.2 of AICTE guidelines as cited above.

12. The applicant in his rejoinder has questioned the argument of the respondents that the 1989 guidelines of AICTE were in force

and claims that his previous employers were Degree Level Institute where Ministry of Human Resources guidelines dated 28.02.1989 were in force, according to which GATE or equivalent was not one of the essential qualification for the post of Lecturer.

13. Be that as it may, since the Department has set up the Screening Committee to go into these very facts and review the order dated 21.05.2013, we would not like to interfere in the process at this stage. We only direct the respondents to complete such enquiry expeditiously and, thereafter, issue a reasoned and speaking order under intimation to the applicant preferably within a period of two months. In case, the applicant is even then aggrieved by such order, he shall be at liberty to approach this Tribunal to question the same in accordance with law.

14. With the above directions, the O.A. stands disposed of. No order as to costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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