

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3609/2013

Reserved on : 08.09.2015.

Pronounced on : 17.09.2015.

Hon'ble Sh. A.K. Bhardwaj, Member (J)

Hon'ble Sh. Shekhar Agarwal, Member (A)

1. Dr. Munendra Kumar,
S/o late Sh. R.N. Singh,
R/o KA-68, F-2, Kaushambi,
Distt: Ghaziabad (UP).
2. Sh. T. Vijaya Kumar,
S/o Sh. K. Thangamani,
R/o 2/9, Aryabhat Enclave,
Ashok Kumar, Delhi-52.
3. Dr. Raju Sarkar,
S/o late Sh. Raj Kumar Sarkar,
R/o Qtr. No.2, Type-III,
G.B. Pant Polytechnic Campus,
Okhla, New Delhi-20.

.... Applicants

(through Sh. Ajesh Luthra, Advocate)

Versus

1. Secretary,
Department of Training and Technical Education,
Govt. of N.C.T. Delhi,
Muni Maya Ram Marg,
Pitampura, Delhi-88.
2. Chairman,
All India Council for Technical Education
(AICTE), 7th Floor, Chanderlok Building,
Janpath, New Delhi-1.

Also at:

NBCC Place,
4th Floor, Eastern Tower,
Bhisham Pitmah Marg,
Pargati Vihar, Lodhi Road,
New Delhi-3.

.... Respondents

(through Sh. Amit Anand, Ms. Pooja Sarkar with Ms. Manpreet Kaur for Sh. Anil Soni, Advocates)

O R D E R

Mr. Shekhar Agarwal, Member (A)

Applicant No.1 joined as Lecturer in Civil Engineering under Department of Training and Technical Education, Govt. of NCT Delhi at Ambedkar Polytechnic in the pay scale of Rs.8000-13500 on 01.12.1998 after being selected through UPSC. He was granted Senior Scale on 01.12.2003 under Career Advancement Scheme (CAS) of AICTE in the pay scale of Rs.10000-15200. He was selected for appointment as Lecturer in Delhi College of Engineering by UPSC and was relieved on 17.12.2007 on which date his technical resignation was accepted. On 18.12.2007 he joined as Lecturer in Delhi College of Engineering where he was granted senior scale w.e.f. 18.12.2007.

2. Similarly, Applicant No.2 joined as Lecturer under GNCTD at Aryabhat Polytechnic on 30.11.1998. He got senior scale on 30.11.2003 and selection grade on 30.11.2008 in the pay scale of Rs. 12000-18300. He was also selected as Lecturer in Civil Engineering at Delhi College of Engineering where he joined on 02.12.2008 after submitting his technical resignation in the Aryabhat Polytechnic. He was granted senior scale w.e.f. 02.12.2008 in Delhi College of Engineering.

3. Applicant No.3 joined as Lecturer under GNCTD at G.B. Pant Polytechnic on 06.06.2000. He was granted senior scale under CAS of AICTE on 06.06.2005. He also joined as Lecturer in Delhi College of Engineering on 30.11.2007 after submitting his technical resignation in the Polytechnic. He was granted senior scale on 30.11.2007 in Delhi College of Engineering.

4. The grievance of all the three applicants is that they were eligible for grant of selection grade w.e.f. 01.12.2008, 30.11.2008 and 06.06.2010 respectively. Instead of that, the respondents have granted them senior scale from different dates mentioned above. This they have done without counting their past services rendered in different Polytechnics. Applicant No.1 made a representation on 07.08.2013 for deciding his eligibility date for grant of selection grade. Similarly, applicant No.2 made a representation on 01.07.2013 on the same issue. Applicant No.3 submitted his representations on 03.07.2013 and 08.08.2013. However, no response was received from the respondents. Hence, they have filed this O.A. seeking the following relief:-

“(a) direct the Respondents to declare the Applicants approved for Selection Grade under Career Advancement Scheme w.e.f. 01-12-2008, 30-11-2008 & 06-06-2010.

(b) direct the Respondent No.1, to allow all pecuniary and other benefits in consequent to their approval for financial upgradation.

(c) Cost.

(d) Any other relief which this Hon'ble Tribunal may deem fit and proper in the interest of justice to the Applicants.”

5. The contention of the applicants is that they have been wrongly denied the benefit of their seniority in total violation of service rules. The action of the respondents was violative of equality before law. The respondents could not have denied the benefit of long years of service put in by the applicants under the CCS(CCA) Rules without any major penalty. Thus, Fundamental provision of Constitution stands violated. The respondents have supplanted statutory guidelines by administrative orders. They have wrongly applied the Rules as approved by AICTE, which were in conformity with UGC Guidelines. The applicants were senior enough to be fitted in selection grade. The respondents have also not replied to the representations made by the applicants forcing

them to approach this Tribunal. Denial of selection grade to them has caused great prejudice and substantial financial loss to them. This has been done without any reasonable ground merely on the basis of conjectures and surmises, despite the fact that AICTE Rules were clear and left no room or doubt regarding the entitlement of the applicants. The applicants have relied on the following judgments:-

- (a) ***Delhi Technological University Versus Mrs. Archana Rani*** W.P. (C) No. 851/2010 & CM No. 6329/2010 and ***Delhi Technological University Versus Mrs. Sangita Kansal***, W.P. (C) No. 892/2010 & CM No. 6328/2010 Judgment dated: 09-08-2010, Hon'ble Delhi High Court.
- (b) ***S. Palanivel v/s The Principal & AICTE***, Madras High Court, decided on 26.11.2009.
- (c) ***R.K. Chaddha Versus Govt. Of NCT of Delhi & Others***, O.A.No. 1669 of 2009.

6. Respondent AICTE have filed their reply in which they have stated that All India Council for Technical Education has been established under the All India Council for Technical Education Act, 1987 with a view to ensuring proper planning and coordinated development of technical education system throughout the country. AICTE is concerned with promotion of qualitative improvements of technical education and regulation and proper maintenance of norms and standards in the Technical Education System. Under Section-10 of the AICTE Act, AICTE lays down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations. In due discharge of its duties as contemplated under the AICTE Act, AICTE has been issuing Notifications/Regulations from time to time prescribing pay scale/salary structure, qualifications, conditions of service, including staff pattern & structure etc. of Technical Institutions. The National Expert Committee was set up in October, 1984 to look into the question of revision of salary structure,

qualifications, conditions of service etc. of teachers of Technical Institutions, including those of Polytechnics. The recommendations of this Committee were considered by AICTE and placed before an Empowered Committee set up by the Ministry. A Notification was issued on 20.09.1989 pursuant to the recommendations of this Committee regarding revision of pay scales of teachers of Polytechnics. As per this, Lecturers were placed in the pay scale of Rs.700-1300 and were to be placed on completion of 08 years as on 01.01.1986 in the pay scale of Rs. 3000-5000. On further completion of 08 years in this scale, they were to be placed in the selection grade of Rs.3700-5700. Subsequently, after consultation with State Governments, another Notification was issued on 30.12.1999 by which CAS was implemented. Under this Scheme, the teachers of Polytechnics were provided facility of moving from the scale of Lecturer to Senior Scale and to Selection Grade on completion of prescribed years of service.

6.1 AICTE have further submitted that from time to time, they received queries on different issues pertaining to pay scales and service conditions of teachers of technical institutions as well as diploma level institutions. They have constituted an Expert Committee to give clarifications on such issues. Thus, they have issued clarification in respect of counting of past service of a person coming from a private Engineering College. The Executive Committee of AICTE has also taken decisions regarding the issues of seniority of CAS promotees vis-a-vis direct recruits, incentives for higher qualifications under CAS, clarifications regarding CAS for teachers of Degree Level Technical Institutions and issues regarding granting stagnation increments to the teachers of approved technical institutions. The Executive Committee also decided that AICTE will follow the

same Rules and Regulations, which were being followed by UGC in similar type of cases.

6.2 As regards counting of past service is concerned, the following decision has been taken:-

“Previous service without any break as a lecturer or equivalent in a University, College, National Laboratories or other Scientific Organizations, (CSIR/ICAR, DRDO, UGC 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 a Lecturer.
- b. The qualifications for the post were not lower than the qualifications prescribed by the UGC for the post of Lecturer.
- c. The Lecturers concerned possessed the minimum qualification prescribed by the UGC for appointment as Lecturers.
- d. The post was filled in accordance with the prescribed selection procedure as laid down by the University/state government.
- e. The appointment was not adhoc or in a vacancy of less than one year duration.”

6.3 Government of NCT of Delhi have also filed their reply in which they have stated that as far as grant of selection grade to the applicants was concerned, a Selection Committee meeting was held and the Selection Committee was of the view that counting of past service rendered by the faculty can be considered only for grant of senior scale and not for selection grade owing to the fact that these faculty members were selected as Lecturers by UPSC. A faculty member was required to render at least 05 years of regular service in senior scale of the Institute in order to be eligible for grant of selection grade. Further, the AICTE Guidelines prescribed for counting of past service of teachers of Degree Level Technical Institutions whereas all the three applicants were praying for counting of past service rendered in Polytechnics, which were

Diploma Level Institutions. With regard to submission of applicants that one Sh. Dinesh Kumar Raheja from Ambedkar Institution of Technology has been granted benefit of past service, the respondent - GNCTD have submitted that Ambedkar Institute of Technology was a Degree Level Institution and that in any case, the applicants cannot be given benefit of any illegality committed in the case of Sh. Dinesh Kumar Raheja.

7. We have heard both sides and have perused the material on record. Learned counsel for the applicants has drawn our attention to AICTE Notifications issued for both Degree and Diploma Level Institutions. Thus, vide letter No. 1-65/CD/NEC/98-99 dated 15.03.2000, Notification regarding service conditions of Teachers, Librarians and Physical Education Personnel of Degree Level Technical Institutions has been circulated. Similarly, vide letter No. 1-65/CD/NCE/98-99 dated 30.12.1999, Notification for Diploma Level Institutions has been circulated. Learned counsel argued that minimum qualification prescribed for recruitment as a Lecturer both in degree as well as diploma level Technical Institutions was first class bachelor's degree in appropriate branch of engineering. The pay scales provided for both were also the same, namely, Rs.8000-13500 for Lecturer, Rs.10000-15200 for senior scale and Rs. 12000-18300 for selection grade. Moreover, under CAS the number of years of service prescribed for moving from Lecturer to Senior Lecturer and from Senior Lecturer to Selection Grade Lecturer was also the same. Thus, a Lecturer with 06 years of service was eligible for grant of Senior Scale with relaxation of 02 years for those having Ph.D qualification and 01 years for those having Post Graduate Degree. For moving from Senior Lecturer scale to Selection Grade, 05 years of service was uniformly prescribed. Learned counsel for the applicants argued that as

far as counting of past service is concerned, for both types of Institutions, the following clause was prescribed by AICTE:-

“Previous service without any break as a lecturer or equivalent in a University, College, National Laboratories or other Scientific Organizations, (CSIR/ICAR, DRDO, UGC 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 a Lecturer.
- b. The qualifications for the post were not lower than the qualifications prescribed by the UGC for the post of Lecturer.
- c. The Lecturers concerned possessed the minimum qualification prescribed by the UGC for appointment as Lecturers.
- d. The post was filled in accordance with the prescribed selection procedure as laid down by the University/state government.
- e. The appointment was not adhoc or in a vacancy of less than one year duration.”

7.1 Learned counsel argued that from the above, it is clear that there was complete uniformity in the pay scales and service conditions of both degree and diploma level institutions as far as Lecturers were concerned. Under these circumstances, there was no reason for the respondents for not counting the services rendered by the applicants in Diploma Level Institutions for grant of selection grade.

7.2 We have considered the aforesaid submissions. In our opinion, while it is true that almost identical service conditions have been prescribed for Lecturers both in Degree and Diploma Level Institutions, the clause regarding counting of past service although same for both types of institutions, does not clearly indicate whether such service has to be counted even when a person moves from Diploma Level Institution to Degree Level Institution. In our opinion, the service in a Diploma Level Institution cannot be equated with service in a Degree Level Institution straight away nor can it be ignored altogether. We have

gone through the affidavit filed by AICTE in which they have stated that they have constituted an Expert Committee to respond to various queries and give clarifications on various issues being raised by Technical Institutions. We find that no clarification has been given regarding counting of past service in cases in which Lecturers move from Diploma Level Institution to Degree Level Institution.

8. Under these circumstances, we dispose of this O.A. with a direction to GNCTD to make a reference in this regard to AICTE within four weeks, who shall respond to the same within four weeks thereafter. The GNCTD shall then act in accordance with the response received from AICTE. In case, the clarification received is in favour of the applicants, they shall be considered for grant of selection grade from the dates from which they become eligible for the same as per the clarification received. If the selection grade is granted, they shall also be eligible for consequential benefits of pay fixation and arrears. The respondents shall complete this exercise within 12 weeks from the date of receipt of a certified copy of this order. Needless to say that if the applicants are still aggrieved by the decision of the respondents, they shall be at liberty to approach this Tribunal by means of fresh judicial proceedings, if so advised. No costs.

(Shekhar Agarwal)
Member (A)

(A.K. Bhardwaj)
Member (J)

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