

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.4611/2015

Order reserved on 19th January 2017

Order pronounced on 25th January 2017

Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Jyotit Arora, Lecturer (English)
w/o Dr N C Arora
r/o H-86, Aaron Ville, Sector 48
Gurgaon

Presently posted at
Pusa Institute of Technology

(Mr. Sourabh Ahuja, Advocate)

..Applicant

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Sachivalaya
IP Estate, New Delhi -2
2. Principal Secretary
(Technical Education)
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
3. Director
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
4. Deputy Director (E-I)
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
5. The Principal
Pusa Institute of Technology
Department of Training & Technical Education
Pusa Campus, New Delhi

(Mrs. Sumedha Sharma, Advocate)

..Respondents

O R D E R

Mr. K.N. Shrivastava:

Through the medium of this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following main relief:-

“(A) Direct the respondents to implement their own order dated 05.09.2013 qua the Applicant in its totality by granting the Lecturer (Selection Grade) to the Applicant w.e.f. 22.06.2003 with all consequential / pecuniary benefits (viz. difference in salary, arrears, interest @18% on the arrears, PB-4, w.e.f. 22.06.2006, seniority, promotion etc.), pay fixation etc.”

2. The brief facts of the case are as under:-

2.1 The applicant was appointed as a Lecturer (English) against a permanent post under the Directorate of Training & Technical Education, which comes under the Department of Training & Technical Education (DTTE), Government of NCT of Delhi (GNCTD). Her selection was done through the Union Public Service Commission (UPSC). She successfully completed her probation period of two years on 22.06.1989 in regard to which the Annexure A-3 order dated 18.06.1991 came to be issued to the effect that she has satisfactorily completed the probation period.

2.2 The All India Council for Technical Education (AICTE) issued Annexure A-4 notification dated 20.09.1989, according to which a Lecturer was eligible for promotion as Senior Lecturer in senior scale. The said notification has been adopted by the GNCTD. Pursuant to the Annexure A-4 notification, the applicant was granted senior scale vide Annexure A-5 order dated 03.12.2008 w.e.f. 22.06.1995.

2.3 The AICTE issued yet another Annexure A-6 notification dated 30.12.1999, according to which a Senior Lecturer/Lecturer (Senior Scale), who has a Master's degree and 5 years experience as senior Lecturer / Lecturer (Senior Scale), and has consistently satisfactory performance appraisal reports, will be eligible to be placed as Lecturer (Selection Grade), subject to the recommendations of the Selection Committee. This notification has also been adopted by the GNCTD. In terms of the Annexure A-6 notification, the applicant was granted selection grade vide Annexure A-1 order dated 05.09.2013 with effect from 22.06.2003 (her eligibility date). The name of the applicant is at Sl. No.4 in the said order under the head "Lecturers of Science & Humanities".

The grievance of the applicant is that the respondents have not implemented their own Annexure A-1 order dated 05.09.2013 and accordingly she has prayed for the relief as indicated in paragraph (1) above.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant thereafter filed her rejoinder. With the completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 19.01.2017. Mr. Sourabh Ahuja, learned counsel for applicant and Mrs. Sumedha Sharma, learned counsel for respondents were heard.

4. Learned counsel for applicant, besides highlighting the issues raised in the O.A. and the rejoinder, submitted that the applicant was not on duty from 23.11.1989 to 18.03.1997 and for this period of absence, appropriate leaves have been sanctioned to her by the competent authority. In this

connection, he drew our attention to the Annexure A-11 office order dated 27.02.2012 issued by the Principal, Pusa Polytechnic, Pusa, New Delhi whereby the applicant's absence period has been regularized on medical grounds and the Principal, vide his corrigendum dated 20.11.2014 (Annexure A-12), has sanctioned earned & extra-ordinary leaves to the applicant to regularize her period of absence, as per the approval of the Principal Secretary, DTTE.

5. Mr. Ahuja further submitted that the applicant was dismissed from service by the respondents for her alleged unauthorized absence, which was challenged by the applicant before this Tribunal in O.A. No.934/1998, which was alleged vide order dated 01.07.1999. Pursuant to the order of the Tribunal, the applicant was reinstated in service vide Annexure A-8 order dated 15.09.1999 issued by the Principal Secretary, DTTE in the name of Lt. Governor, Delhi. He argued that the applicant was granted selection grade vide Annexure A-1 order dated 05.09.2013 after 14 years of her reinstatement and as such the respondents are obliged to grant her the selection grade and re-fix her pay accordingly, as also release all the consequential benefits to her. Hence, the relief prayed for in the O.A. may be allowed, Mr. Ahuja argued.

6. *Per contra*, Mrs. Sumedha Sharma, learned counsel for respondents argued that the applicant admittedly was unauthorizedly absent from 23.11.1989 to 18.03.1997, for which she was dismissed from service but subsequently she was reinstated in service by virtue of Tribunal's order dated 01.07.1999 in O.A. No.934/1998. Consequently the Annexure A-8

reinstatement order dated 15.09.1999 was issued, which *inter alia* states as under:-

“It is hereby ordered that the period of absence of Smt. Jyotit Arora from her duty till the date of her resuming the duties shall be treated as dies non.”

She stated that the Annexures A-11 & 12 orders have been issued by some officials regularizing the period of absence of the applicant without authority. She further stated that the Lt. Governor, Delhi has ordered an inquiry in the matter as to how the applicant's period of absence has been regularized without placing the matter before the Lt. Governor. She also stated that vide office order dated 23.05.2016 issued by the DTTE, GNCTD a Committee of three officers has been constituted to inquire into the matter. In such circumstances, the request of the applicant for grant of selection grade and for re-fixation of her pay accordingly, cannot be considered till the inquiry in the matter is accomplished and a final decision is taken by the Lt. Governor, Delhi. A copy of the order dated 23.05.2016 was placed on record by the learned counsel for respondents.

7. Replying to the arguments of learned counsel for respondents, Mr. Ahuja, learned counsel for applicant submitted that the Annexures A-11 & A-12 orders were issued way-back on 27.02.2012 and 20.11.2014 respectively regularizing the absence period of the applicant. The respondents are questioning the said regularization after two years without explaining their silence of over 2 years. He further stated that the office order dated 23.05.2016 states that a Committee of three officials has been constituted and the said Committee has been directed to submit its report by 30.06.2016 but no such report has been submitted as yet by the said

Committee. He vehemently argued that some officials in DTTE have been deliberately trying to harass the applicant and deprive of her legitimate rights. He further submitted that the applicant was reinstated in service way back on 15.09.1999. In terms of Annexure A-6 notification of AICTE, which has been duly adopted by GNCTD, she became eligible for grant of selection grade and accordingly Annexure A-1 order dated 05.09.2013 has been issued granting her the selection grade w.e.f. 22.06.2003. Hence there is no justification on the part of the respondents in not extending the benefits of Annexure A-1 order to her.

8. We have given our thoughtful consideration to the arguments put forth by the learned counsel for the parties and have also perused the pleadings and documents annexed thereto.

9. Admittedly, the applicant was absent from duty from 23.11.1989 to 18.03.1997, for which she suffered departmental proceedings, which resulted into her dismissal from service but she was reinstated by virtue of the order passed by this Tribunal on 01.07.1999 in O.A. No.934/1998 whereby her dismissal was declared illegal. Accordingly, Annexure A-8 reinstatement order came to be issued on 15.09.1999 reinstating her in service. Her period of absence was declared as *dies non* vide Annexure A-8 order, but subsequently vide Annexures A-11 & A-12 orders, the said period has been regularized by sanctioning her appropriate leaves. Whether Annexures A-11 & A-12 orders have been issued without authority by the respondent No.2 is not the issue in this O.A. Obviously, the applicant had no role in the issuance of Annexures A-11 & A-12 orders. The applicant has been granted selection grade vide Annexure A-1 order dated 05.09.2013,

which admittedly has been issued on the basis of the recommendations of the Selection Committee and with the approval of the Lt. Governor. If the applicant was ineligible for the grant of selection grade for the reasons argued by the learned counsel for respondents, then the respondents could not have granted her the selection grade vide Annexure A-1 order. The subsequent action of the respondents to launch an inquiry vide office order dated 23.05.2016 as to how the Annexures A-11 & A-12 were issued whereby the absence period of the applicant was regularized, is completely alien to the subject matter of this O.A.

Hence, we are of the firm opinion that a time bound direction is required to be issued to the respondents to implement their own Annexure A-1 order dated 05.09.2013.

10. In the conspectus of the discussions in the foregoing paragraphs, the respondents are directed to implement Annexure A-1 order dated 05.09.2013 in respect of the applicant within a period of three months from the date of receipt of a copy of this order. They shall also release all the consequential benefits to the applicant within the aforesaid period.

11. Accordingly, the O.A. is allowed. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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