

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00296/2013

Jabalpur, this Friday, the 3rd day of August, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Iqbal Ahmed,
Son of Late Mukhtar Ahmad,
Aged about 70 years, (Retired Reader in English),
R.I.E., Bhopal (M.P.),
R/o 17, Bright Colony,
Opposite St. Joseph Convent School,
Idgah Hills, Bhopal (M.P.), PC 462001

-Applicant

(By Advocate –**Shri Moharram Ali**)

V e r s u s

1. Union of India, through the Secretary,
Ministry of Human Resources,
Shastri Bhawan,
New Delhi 110001

2. National Council of Educational Research and Training,
Through its Director,
Sri Aurobindo Marg,
New Delhi-110016

3. National Council of Educational Research and Training,
Through its Secretary,
Shri Aurobindo Marg,
New Delhi 110016

-Respondents

(By Advocate –**Shri A.T.Faridee**)

(Date of reserving the order:-01.08.2018)

ORDER**By Ramesh Singh Thakur, JM:-**

This Original Application has been filed by the applicant with a prayer for stepping up of his pay which has been denied by the replying respondents mentioning that the stepping up of pay is permissible if anomaly has been arisen as a result of the application of provision of FR-22(C).

2. The applicant has sought for the following interim relief in this Original Application:-

“(8) Relief Sought:

(i) The Hon'ble Tribunal may graciously be pleased to allow this application and respondents concerned may kindly be directed to step up of applicant's pay upto his age of superannuation and further determine the pension accordingly to his salary at par with other juniors.

(ii) The Hon'ble Tribunal may graciously be pleased to pass such other orders in favour of the applicant as deem fit and proper considering peculiar the facts and circumstance of the instant matter.

(iii) Cost of the application be allowed.”

3. Precisely the case of the applicant is that he was posted in the Regional Institute of Education at Bhopal under National Council of Educational Research & Training, New Delhi. The applicant was promoted on the post of reader on 01.01.1987 under Merit Promotion Scheme (MPS) with effect from 1987. At the relevant time the other persons namely Dr. Sant Prakash and Dr.

S.N.L.Bhargava were also considered for promotion but their claim was rejected by the Selection Committee. Subsequently, they were again interviewed in the year 1990 and promoted as reader under Career Advancement Scheme (CAS) with retrospective effect from 01.01.1986.

4. The grievance of the applicant is that he made many representations as per Annexure A-1 & A-4 with a request that the applicant ought to be considered mentioning that a person who was selected on merit should not get less pay than others who were rejected by the Selection Committee under MPS.

5. The applicant was pursuing his claim but in the meantime the applicant retired on attaining the age of superannuation and the grievance of the applicant was not redressed.

6. Ultimately, on 02.12.2011 by the impugned order the applicant has finally informed that his request for stepping up of pay can not be accepted mentioning that “stepping up of pay is permissible if anomaly has been arisen as a result of application of provisions FR 22(C) or any other rules of order regulating pay fixation on such promotion in the revised scale vis-à-vis the fulfilment of other condition mentioned therein (Annexure A-7).

7. The replying respondents have filed their reply. It has been specifically submitted by the replying respondents that the Original Application is misconceived and devoid of merit because order dated 02.12.2011 passed by respondent No.2 has been assailed but that has not been sought to be quashed. Moreover, similarly junior persons should have been pleaded so the Original Application is bad for non-joinder of proper party.

8. On merit the replying respondents has submitted that the applicant earlier being posted in Regional Institute of Education at Bhopal under NCERT, New Delhi was promoted on the post of reader on 01.01.1987 under MPS with effect from 01.01.1987. It has been further submitted that Dr. Sant Prakash and Dr. S.N.L.Bhargava were also considered to be promoted on the post of reader but their claim was rejected by the Selection Committee. Subsequently, Dr. Sant Prakash and Dr. S.N.L.Bhargava were promoted in 1990 under Career Advancement Scheme (CAS) with retrospective effect from 01.01.1986 i.e. a year before applicant's promotion on 01.01.1987. It has been specifically mentioned by the replying respondents that the representation dated 05.10.1994, 10.10.1995, 18.06.1997 & 23.06.1997 were received by the NCERT. The NCERT has had decided to follow the MPS of UGC from 01.01.1983 as per Annexure R-4 and it was revivable in every

two years. So the applicant was promoted to the post of reader with effect from 01.1.1987 after fulfilling the condition of eight years of regular service and having PhD degree from 19.07.1985 which is revealed from Annexure R-5.

9. The order dated 16.12.1987 (Annexure R-5) was further modified by giving the revised pay-scale of reader 3700-5700/- in pursuance of Govt. of India, Ministry of HRM Department letter dated 22.07.1988 (Annexure R-6). The NCERT vide order dated 18.08.1988 as per Annexure R-7 has also granted benefits of revised pay-scale to the MPS promotee who opted out of MPS. The applicant has superannuated on 28.02.2002. The replying respondents in Para 12 has given the detail whereby chart has been shown. From the chart it is itself clear that the applicant was placed in the reader scale on 01.01.1987 under MPS and Dr. S.N.L.Bhargava and Dr. Sant Prakash has been placed in the reader scale under CAS with effect from 12.01.1986 and 01.01.1986 respectively. It has been specifically submitted by the replying respondents that the request of the applicant for solution of his case as per FR 22(C) was considered by the council on 02.12.2011 (Annexure R-3) and the applicant was informed that there is no anomaly caused to the applicant in pursuance of FR 22(1)(a)(I) but

it is rather due to promotion under different schemes. So it is not possible to step up pay as per rules.

10. The applicant has filed rejoinder and has reiterated its earlier averments as in the Original Application.

11. The applicant has also submitted that the earlier service of applicant as lecturer and assistant professor of English in Seifia PG College Bhopal an MP Govt. aided institution (9 years) taken into account, due to which the applicant was not eligible for CAS as one year short of the required period of service i.e. 13 years.

12. We have heard the learned counsel for parties and carefully gone through the pleadings and the documents available on record.

13. On the outset it is clear that the applicant has been selected under MPS and has been promoted on the post of reader on 01.01.1987. It is also clear that Dr. Sant Prakash and Dr. S.N.L.Bhargava were admittedly senior to the applicant which is clear in Para 12 of the reply filed by the replying respondents.

14. It is also clear from the reply of the replying respondents that Dr. Sant Prakash and Dr. S.N.L.Bhargava has been promoted under CAS Scheme. It is relevant to mention that under CAS Scheme Dr. Sant Prakash and Dr. S.N.L.Bhargava were eligible for the post of

reader on completion of 13 years from the date of appointment as reader and in the year of 1986.

15. On the other hand, the applicant has been promoted under MPS scale on 01.01.1987 as per Annexure R-4, which is copy of "Merit Promotion Scheme". The main criteria for promotion under the scheme would be the merit of the work as defined and not the seniority. From the documents it is itself clear that the applicant has been selected under MPS scheme despite the fact that in the seniority, the applicant was lower than that of Dr. Sant Prakash and Dr. S.N.L.Bhargava. Both of them have been promoted under CAS scheme on completion of 13 years as lecturer from the date of appointment.

16. The contention of the applicant that earlier period of the applicant in Seifia PG College Bhopal has not been counted for the purpose of seniority. It is relevant to mention that Seifia P.G. college is an M.P. Govt. aided institute, which is itself clear in Para 5 of the rejoinder. Moreover, the applicant has been selected under MPS scheme irrespective of the seniority in the Govt. service. Admittedly, the service in Seifia P.G. College Bhopal is not a Govt. Service. So it is clear that Dr. Bhargava and Dr. Sant Prakash are senior as lecturer and after completion of 13 years has been

promoted as reader under CAS scheme. As the applicant has been selected and promoted under MPS scheme which is a different mode of selection and the applicant can not claim the benefit of CAS scheme as applicant has already opted for MPS scheme.

17. Resultantly, there is no merit in the Original Application and the same is dismissed being devoid of any merit.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member