

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.201/00038/2016

Jabalpur, this Thursday, the 13th day of December 2018

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

Pankaj Laud S/o Shri Lakhan Lal Laud
Age:41 years, Occupation-Service
R/o 394 Khatiwala Tank Manik Bag Road,
Indore (M.P.)

-Applicant

(By Advocate –**Shri Vaibhav Asawa**)

V e r s u s

1. Union of India, Through Secretary
Ministry of Defence New Delhi PIN 110011

2. Dte Gen of Military Training (MT-7)
General Staff Branch
Integrated HQ of Min of Def (Army)
'A' Wing Sena Bhawan
New Delhi PIN 110011

3. Director General of Infantry
Infantry – 4 General Staff Branch
Army Headquarters DHQ PO New Delhi 110011

4. The Controller of Defence Accounts
Ridge Road Jabalpur Cantt. Jabalpur (M.P.) PIN 482001

5. The Commandant Infantry School Mhow Cantt.
Mhow (M.P.)PIN 453441

- Respondents

(By Advocate –**Shri Kshitij Vyas proxy counsel for**
Shri Deepak Rawal)

(Date of reserving the order: 09.08.2018)

ORDER

By Ramesh Singh Thakur, JM:-

The applicant in this Original Application is seeking direction to the respondents to grant the benefit of upgradation and other consequential and financial benefits w.e.f.04.02.1999.

2. The applicant has sought for the following relief:-

“8(i) That, the respondents may kindly be directed to grant the benefit of upgradation and other consequential and financial benefits w.e.f.04/02/1999.”

3. The brief facts of the case are that the applicant was appointed on the post of Librarian Grade IV w.e.f. 04.02.1999 (Annexure A-1) in the pay scale of Rs.3200-85-4900 in the Infantry School Mhow.

3.1 Respondent No.1 vide letter dated 24.02.2006 (Annexure A/2) graded the Library of Infantry School Mhow as Category III in terms of Ministry of Finance letter dated 24.07.1990 and 26.10.1990. Consequently the post of applicant was categorized from Librarian Grade IV (3200-85-4900) to Senior Library and Information Assistant (5500-175-9000). The applicant submitted that the said restructuring/upgradation of Library and its staff was granted in view of order/letter dated 25.01.1993 (Annexure A/3) issued by respondents and further letter dated 24.11.1996 whereby respondent No.5 was directed to submit the detailed and exhaustive

structure of Library so that the upgradation of the Library could be done in view of letter dated 24.07.1990 and 26.10.1990.

3.2 The applicant submitted that the similar institution to the institution of applicant i.e Library of Defence Service Staff College, Wellington has extended the above mentioned upgradation w.e.f. 02.01.1995 vide order dated 09.08.2002 (Annexure A/4) and due to which the staff posted at said institution are getting a higher pay scale, salary and other financial benefits than the present applicant though the institution of the applicant and Wellington Library are branches of the same tree i.e. under Ministry of Defence having status of Category A Establishment and has been graded as Category III Library. Thus, the applicant is entitled for grant of similar benefits.

3.3 It has been submitted by the applicant that he was been granted upgradation and financial benefits w.e.f.24.02.2006 whereas the similarly situated persons posted at Wellington Library has been granted the benefits w.e.f.02.01.1995. He further submits that another similar institution i.e. Library Staff of the College of Combat, Mhow (now known as Army War College) has also been extended the aforementioned benefit w.e.f. 07.08.1995 vide order dated 08.08.1995 (Annexure A/5).

3.4 It has been specifically mentioned by the applicant that the Ministry of Finance, Department of Expenditure (Implementation Cell) vide its letter dated 21.02.2002 (Annexure A-6) directed the respondents to ensure the uniform implementation of provisions of 5th Pay Commission. In spite of letters of Ministry of Finance, respondents have not granted the benefit w.e.f.02.01.1995.

3.5 The applicant thereafter was promoted as Assistant Library and Information officer (Group B Gazatted) vide order dated 26.02.2010 (Annexure A-7). The applicant submitted a representation dated 16.06.2015 (Annexure A-8) to the respondents.

3.6 It is pertinent to mention that the respondents vide letter dated 27.11.2012 (Annexure A/9) states that the revised pay scales will take effect from 02.01.1995 and the pay of the existing incumbent will be fixed under FR 23 and FR 22 1(a) (2). The respondents vide letter dated 30.07.2013 (Annexure A/10) refused to grant the benefit w.e.f.02.01.1995 on the ground that the upgradation was specifically granted to Staff College Wellington and is not applicable to Infantry School Mhow. The respondents vide letter dated 26.06.2015 (Annexure A/11) rejected by representation of the applicant submitted by him on 16.06.2015. The applicant again represented vide letter dated 22.12.2015

(annexure A/12) but the same is remained unanswered. Hence this Original Application.

4. The respondents in their counter reply have submitted that the applicant's post had been re-categorised as Senior Library and Information Assistant in the Pay Scale of Rs.5500-175-9000 with the seniority in the re-categorised grade w.e.f.24.02.2006. So, the instructions issued vide letter dated 21.02.2002 (Annexure R/5) has been complied with. Thereafter the applicant was granted 1st MACP with Grade Pay of Rs.4600/- in Pay Band-2 (6th CPC) w.e.f.04.02.2009 having completed 10 years of regular service in the feeder post and promoted to the post of Assistant Library and Information Officer (Group B Gazatted w.e.f.01.03.2010). It is further submitted that all the categorization were carried out uniformly as per CPRO 8/91 and with effect from the date of implementation as specified in the respective Government sanction letters.

4.1 The respondents further submitted that Directorate General of Military Training, Army Headquarters vide their letter dated 25.01.1993 (Annexure R/9) issued instructions to all commandants/Principals of establishments under Military Training Directorate to complete the formalities for designing the Cadre Structure of Staff for each library in consonance with the

instructions/parameters as laid down vide CPRO 8/91 (Annexure R/4). Vide letter dated 24.11.1996 (Annexure R/10) Military Training Directorate also expedited the case of re-categorization of libraries of Category 'A' training establishments. In the said letter, it was also highlighted that wherever re-categorisation of libraries has been completed through issue of Government letter, further instructions be obtained for follow up actions.

5. The applicant has submitted rejoinder to the reply filed by respondents and has reiterated his stand as taken in the Original Application. Further it has also stated that the Infantry School Library was not awarded any category before 2006 and in 2006 it had been categorized as Category III library. It has been submitted that while implementing benefits, uniformity was not complied in true letter and spirit as a result all affected staff of Category 'A' establishments are getting benefits from varied dates as mentioned below:-

S. N.	Category 'A' Establishments	Date of Implementation of Pay Benefits
(a)	Defence Service Staff College, Wellington	02/01/1995
(b)	Army War College, Mhow (College of Combat)	07/08/1995
(c)	Military College of Telecommunication Engineering Mhow	05/03/2004
(d)	Infantry School	04/02/2006

The applicant further submits that the respondents have failed to disclose what parameters, modalities and criteria was applied while granting different dates to these above Category 'A' Establishments for implementing pay benefits.

6. We have heard the learned counsel for both the parties and perused the pleadings and documents annexed therewith.

7. It is an admitted fact from the pleadings that the applicant was appointed on the post of Librarian Grade IV w.e.f. 04.02.1999 (Annexure A-1) in the Infantry School, Mhow. The main contention of the applicant is that vide Annexure A/2 the library of Infantry School Mhow was made as Category III in terms of Ministry of Finance letter dated 24.07.1990. The applicant submitted that the said restructuring/upgrading of Library was granted in view of letter dated 25.01.1993 (Annexure A/3). It has been further contended that the similar institution as the institution of the applicant i.e. Library of Defence Service Staff College, Wellington has extended the upgradation w.e.f.02.01.1995 (Annexure A/4) and the Librarian in those institutions are getting the higher pay scale, salary and other financial benefits than the applicant, though the Wellington Library are branches of the same tree i.e. under Ministry of Defence.

8. On the other side, the respondents have specifically submitted that the applicant was appointed to the post of Librarian Grade-IV in the Infantry School, Mhow. Vide Government of India, Ministry of Defence, New Delhi letter dated 24.02.2006, as received vide IHQ of MoD letter dated 01.03.2006, Library of Infantry School, Mhow had been categorized as Category III library from Category II in terms of Ministry of Finance (Department of Expenditure) letter dated 24.07.1990 and 26.10.1990 vide Annexure R/2, R/3 and R/4. It has been specifically submitted by the replying respondents that after categorization of Infantry School Library as Category III Library w.e.f. 24.02.2006, upgradation/restructuring of Library Staff was revised as per pay scale of 5th CPC. By doing so, instruction issued vide Government of India, Ministry of Finance Department of Expenditure OM dated 21.02.2002 (Annexure R/5) has been complied with. It has further submitted by the replying respondents that the applicant was granted 1st MACP w.e.f. 04.02.2009 in Pay Band-2 (6th CPC) having completed 10 years regular service in the feeder post and promoted to the post of Assistant Library and Information Officer (Gp 'B' Gazatted w.e.f.01.03.2010). It has also been submitted by the replying respondents that Category III Library status and revised pay scale of Library Staff for DSSC

Wellington Library was granted with effect from 02.01.1995 as per Ministry of Defence letter dated 02.01.1995 and 09.08.2002 (Annexure R/6). The college of Combat (now Army War College) Mhow was upgraded to Category III Library in Aug 1995 as per Government of India, Ministry of Defence letter dated 08.08.1995 (Annexure R/7) and Military College of Telecommunication Engineering Mhow Library was categorized as Category III vide Ministry of Defence letter dated 05.03.2004 (Annexure R/8). So, it has been specifically submitted by the replying respondents that the said categorizations were carried out uniformly as per CPRO 8/91 and with effect from the date of implementation as specified in the respective Government sanction letter.

9. As per replying respondents, it is clear that the category of Infantry School Mhow has been categorized as Category III Library. Moreover, the Infantry School Mhow Library, the upgradation/restructuring of library staff has been done w.e.f.24.02.2006. It is very clear that the power for categorization of institution lies with the employer and Ministry of Defence is within its ambit to categorize the status of any institute. It is admitted fact from the pleadings that the library have been established for different types of institutions namely Infantry School Library, College of Combat and Military College of

Telecommunication Engineering Mhow, though all the institutions are at Mhow but the status of different institution for different category are different. So, it is the sole prerogative of the Government to categorized Library Staff of a particular institution. Moreover, upgradation/restructuring of the staff is the total and absolute power of the Government/employer.

10. In the instant case, there is specific averments in the reply of the respondents that the cadre structure of staff for each library is consonance with the parameters laid down vide CPRO 8/91 (Annexure R/4). Furthermore, the post of Librarian Grade I has been revised as Librarian and Information Officer. The post of Librarian Grade II has been revised as Assistant Library and Information Officer and the post of Librarian Grade IV has been revised as Senior Library and Information Assistant. Moreover, the applicant has been granted 1st MACP with Grade Pay of Rs.4600/- in Pay Band-2 (6th CPC) w.e.f.04.02.2009 having completed 10 years of regular service in the feeder post and promoted to the post of Assistant Library and Information Officer (Group B Gazatted w.e.f.01.03.2010).

11. In view of the above, we are of the view that no interference is required from this Tribunal, due to the fact especially from the pleadings there is no iota of discrimination on the part of the

respondents. Moreover, the upgradation/restructuring of staff is the total prerogative of the employer of the department.

12. Resultantly, this O.A. is dismissed being devoid of any merits. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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