

Central Administrative Tribunal Principal Bench, New Delhi

R.A. No.208/2017 in O.A. No.3411/2015

Monday, this the 18th day of February 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

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

..Review Applicants
Respondents

(Mr. Amit Anand, Advocate)

Versus

N C Goel
Lecturer (Selection Grade)
s/o Shri Damodar Dass
R/o G-1106, Amrapali Sapphire
Sector 45, Noida – 201301

.. Respondent

(By Advocate: Mr. Sourabh Ahuja, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

This Review Application is filed by the respondents in
O.A. No.3411/2015 with the prayer to review the order dated

08.02.2017. For the sake of convenience, the parties are referred as arrayed in the O.A.

2. The applicant worked as Lecturer in Polytechnic run by the Govt. of NCT of Delhi. When he was denied the benefit of promotion to Selection Grade, he approached this Tribunal by filing O.A. No.1622/2012. The O.A. was allowed and as a result thereof, he was extended the benefit of Selection Grade in the Grade Pay of ₹8000/-.

3. Claiming that he is entitled to be extended further promotion with the Grade Pay of ₹9000/-, the applicant filed the present O.A., i.e., O.A. No.3411/2015. The plea of the respondents was that it was essential for a candidate to hold Ph.D. in the concerned discipline, to become eligible to be extended the benefit of Grade Pay of ₹9000/-. The O.A. was allowed through an order dated 08.02.2017 directing the respondents to issue an order granting the Grade Pay of ₹9000/- to the applicant from the due date, i.e., 30.06.2012.

4. The respondents filed W.P. (C) No.6305/2017 before the Hon'ble Delhi High Court, feeling aggrieved by the order passed in the O.A. After the W.P. progressed to certain extent, they sought permission to withdraw the same with liberty to file a Review in the O.A. Thus, this R.A. is filed.

5. The respondents contend that under the guidelines framed by the AICTE from time to time, Ph.D. is an essential qualification for a Lecturer to move from Grade Pay of ₹8000/- to Grade Pay of ₹9000/-, and admittedly, in the instant case, the applicant did not hold that qualification. Another contention raised in the R.A. is that while passing the order in O.A., the Tribunal issued a direction straightway to pass order granting Grade Pay of ₹9000/- to the applicant and the same is untenable in law.

6. The R.A. is opposed by the applicant. He contends that at the relevant point of time, Ph.D. was not essential for extending the benefit of Grade Pay of ₹9000/- to a Lecturer, and that the Tribunal has taken the correct view of the matter. As regards the nature of direction issued by the Tribunal, it is stated that on hearing both the sides, the Tribunal was convinced that the applicant is entitled for the relief, and accordingly a direction was issued.

7. We heard Mr. Amit Anand, learned counsel for applicants and Mr. Sourabh Ahuja, learned counsel for respondents.

8. We do keep in mind, that review is not an appeal and it is only when it is pleaded and established therein that an important fact or a proposition of law missed the attention of the Court when

the case was decided, or that a patent mistake has crept into the order, that a possibility may exist for reviewing the order.

9. The issue in the O.A. was as to whether the applicant was entitled to be extended the benefit of Grade Pay of ₹9000/-. For this purpose, it was necessary to verify the relevant provisions of law, particularly when there was a serious contest. The O.A. was allowed mostly on the grounds of discrimination. It was mentioned that as many as five Lecturers were extended the benefit of Grade Pay and the applicant, who is similarly situated, was not extended the benefit. Nowhere in the order, we find that any attempt was made to verify as to whether the persons named by the applicant fulfilled the conditions for Selection Grade, and whether the applicant also fulfilled the same. Even where a benefit is extended to some, in deviation from the Rules, there cannot be any direction to make one more deviation. Such a situation could have been avoided by recording a finding as to compliance with the relevant provisions of law. The respondents categorically stated that no Lecturer, who was not qualified, was extended the benefit and that the applicant does not hold the requisite qualification.

10. Another aspect is the nature of direction to be issued, and the concluding portion of the order. Assuming that the applicant acquired the qualification to be extended the benefit of Grade Pay of ₹9000/-, the appropriate direction would have been to consider

his case by treating him as qualified. The reason is that mere holding of a qualification does not entitle a person to get the benefit. The other requirements under the relevant provisions, such as minimum standing, gradation of ACRs, assessment by a Screening Committee, were required to be undertaken. Directing the respondents to straightway issue an order extending the benefit of Grade Pay of ₹9000/- to the applicant, runs contrary to law laid down by the Hon'ble Supreme Court.

11. Therefore, we allow this R.A. and recall the order dated 08.02.2017 passed in O.A. No.3411/2015. The O.A. is restored to file. It is directed to be listed for hearing on 18.03.2019.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 18, 2019
/sunil/