

**Central Administrative Tribunal
Principal Bench**

OA No.1174/2013

New Delhi, this the 19th day of March, 2019

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

Smt. Arun Bala Anand
W/o of late Shri R.N. Anand
R/o B-41, Brahma Apartments
Sector 7, Plot No.7, Dwarka
New Delhi-110075.

...Applicant

(By Advocate: Shri L.R. Khatana)

Vs.

1. Union of India
Through Secretary to the Govt. of India
Ministry of Petroleum & Natural Gas
Shastri Bhavan, New Delhi-110001.
2. Department of Personnel & Training
(through its Secretary)
South Block, New Delhi-110001. ...Respondents

(By Advocate: Ms. Aishwarya Dobhal for Shri Hilal Haider)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant joined the service of the Ministry of Petroleum and Natural Gases in the year 1974 as Junior Library Assistant in the pay scale of 262-430. The 4th Pay Commission made certain recommendations about

the merger of various posts in the Library Establishment. The reorganisation was brought about but the post held by the applicant was left out. A Committee headed by Prof. D.P. Chattopadhyay was constituted for this purpose and that also made certain recommendations.

2. Complaining that the post held by her was left out even by the Committee, the applicant filed OA No.2679/2005. That was disposed of on 18.09.2006 with a direction to the respondents to constitute a Committee to look into the claim of the applicant for the purpose of bringing the post, held by the applicant.

3. Stating that the direction issued in the said OA was not complied with, the applicant filed CP No.210/2007 and that was closed on 07.06.2007 by leaving it open to the applicant to canvass the remedies further. Thereafter, the applicant filed OA No.1444/2007. A specific direction was issued therein in the context of extending the benefit of recommendations of the Pay Commission. Contempt Case No.432/2008 was filed and in compliance with the directions issued in the order dated 06.04.2009,

respondents passed an order dated 11.02.2010. The purport thereof is that the applicant who was in the pay scale of Rs.975-1540/- (pre-revised) is upgraded to the scale of Rs.1400-2600/- revised to Rs.5500-9000/- under the 5th Pay Commission w.e.f. 01.01.1999, on her acquiring degree in Library Science along with batch mates.

4. The respondents issued an officer order dated 26.05.2010 incorporating the benefit of revised pay scales in the context of the first and second ACP. In the light of these developments, the respondents have also issued an order No.98/2010 dated 02.07.2010, extending the relief of the third MACP to her.

5. Not satisfied with that, the applicant filed a representation on 27.07.2010. The respondents passed an order dated 29.08.2012 rejecting the representation. The same is challenged in this OA.

6. The applicant contends that she was entitled to be extended the benefit of upgradation under the ACP Scheme on par with other similarly situated persons and that the orders dated 29.08.2012, 26.05.2010 and

02.07.2010 deserve to be declared as illegal, arbitrary and untenable.

7. The applicant contends that the first and second ACPs were determined at a time when the pay scale was not revised and that she was entitled to be extended the benefit. Other contention is about offsetting of first ACP against an ad hoc promotion. As regards the third ACP, the applicant contends that the effect of revision of the earlier ACPs was not reflected in the same. Other contentions are also urged.

8. Respondents filed a detailed counter affidavit. It is stated that though the reorganisation in the set up of the Library has taken place, the applicant became entitled to be extended the benefit of an upgraded pay scale only on acquiring the graduation Degree in Library Science. It is also stated that the issue pertaining to first and second ACPs assumed finality with passing of an order on 27.03.2000 and the same cannot be reopened at this stage. The comparison made by the applicant with another employee is stated to be untenable.

9. We heard Shri L.R. Khatana, learned counsel for the applicant and Ms. Aishwarya Dobhal for Shri Hilal Haider, learned counsel for the respondents, in detail.

10. The order which is impugned in the OA is basically the one dated 29.08.2012. That, in turn, is passed on a representation made by the applicant, raising some objections to the office Order No.98/2010 dated 02.07.2010. The subject matter of the said order is the extension of the benefit of third ACP to the applicant.

11. The principal contention urged by the applicant is that had the first and second ACPs been determined in accordance with the revised pay scale, the MACP would have also been different. In the representation she furnished the facts and figures which according to her, must be reflected in the first, second and third ACP.

12. The occasion for us to consider the correctness or otherwise of the first and second ACP would have arisen if only they were challenged specifically. It is a matter of record that the benefit of first and second ACP, in respect of the applicant, were determined through an order dated 27.03.2000. The details

thereof are mentioned in the office order dated 26.05.2010. The applicant did not choose to challenge the order dated 27.03.2000. At this length of time, we do not permit her to raise the contention in this behalf.

13. It is true that an employee by name Swadesh Kumari Aggarwal, who too worked in the Library Establishment was extended some benefits. That however, on the basis of a representation made by her on 18.08.2004, by citing several official memoranda such as those dated 24.07.1990, 10.02.2000 and 23.02.2002. Added to that, she was a direct recruit to the post of Junior Library Assistant and she earned promotion before the revision of pay scales. In the context of extending the benefit of the ACP, the promotion, so ordered, was ignored and the benefit was extended. Such is not the case here.

14. At any rate, the applicant did not agitate the issue at the relevant point of time. Once the challenge by the applicant to the fixation of first and second ACP becomes unacceptable, there is no way that one can find fault with the office order dated 98/2010 dated 02.07.2010. The time at which the qualification of the

Degree in Library and Information Science is obtained is another important factor.

15. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/