

**Central Administrative Tribunal
Principal Bench**

**OA No.3558/2016
MA No.5311/2018**

New Delhi, this the 7th day of January, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Mr. Harendra Pratap Singh
S/o Sh. B.P. Singh
Presently working as Deputy Director
(Publicity) & Chief Editor
In the O/o DC (MSME)
Ministry of Micro, Small & Medium Enterprises
Govt. of India, Nirman Bhavan, New Delhi
Aged about 50 years. ... Applicant

(By Advocate: Ms. Jasvinder Kaur)

Versus

1. Union of India through Secretary
Ministry of Micro, Small & Medium
Enterprises, Udyog Bhavan, New Delhi.
2. Development Commissioner(MSME)
Ministry of Micro, Small & Medium Enterprises
Nirman Bhavan, New Delhi.
3. Secretary, Union Public Service Commission
Dholpur House, Shahjehan Road
New Delhi.
4. Ministry of Finance, Department of Expenditure
Through Director (Expenditure)
North Block, New Delhi. ...Respondents

(By Advocates: Shri Anil Kumar Singh)

ORDER (ORAL)**Justice L. Narasimha Reddy:-**

The applicant joined the service of the Ministry of Micro, Small and Medium Enterprises as Assistant Editor (Hindi) since re-designated as Assistant Director (Publicity) (AD for short) in the year 1999. Apart from direct recruitment, there is also a channel of promotion to that post. In the same organization, there exists a post of Hindi Officer (HO for short). For this post also, the appointment is through direct recruitment as well as promotion.

2. For the post of AD and HO the pay scale was same till 01.01.2006. On the recommendations of the 6th CPC, the pay scale for this post was put at a higher level than that of the AD. The applicant made a representations pointing out the difference. Through two Memoranda dated 10.06.2009 and 26.03.2010, the respondents rejected the representation of the applicant. Challenging the said two memoranda, the applicant filed OA No.1635/2010 before this Tribunal. The OA was allowed through Order dated 20.02.2011 and both the memoranda dated 10.06.2009 and 26.03.2010 were set aside. The respondents were

directed to reconsider the issue with reference to the Recruitment Rules and the duties for both the posts, referred to above.

3. The respondents have undertaken consultation with the Department of Official Language, Department of Personnel and Training and Department of Expenditure, to examine the issue raised by the applicant. Through a speaking order dated 26.04.2012, the claim of the applicant was rejected.

4. The applicant filed OA No.1820/2012 before this Tribunal challenging the order dated 26.04.2012. The OA was allowed through Order dated 11.04.2013 and the Order impugned therein was set aside. It was directed that the advice given by the Department of Official Language and the Ministry of Finance shall be examined, duly taking into account the respective Recruitment Rules, for the posts.

5. The respondents filed WP(C) No.6227/2013 before the Hon'ble Delhi High Court challenging the Order in OA No.1820/2012 dated 11.04.2013. The Writ Petition was disposed of on 30.09.2013 reiterating the directions issued by this Tribunal.

6. In compliance with the directions issued by this Tribunal, as affirmed by the High Court, the respondents formed a Departmental Anomaly Committee which, in turn, has decided to take the matter to the Department of Expenditure. After a complex exercise, the Recruitment Rules for the post of AD were amended and the pay scale of the post of AD was revised to PB-3, with Grade Pay of Rs. 5400/- i.e. on par with the post of HO. Through Office Order dated 16.10.2014, the applicant was communicated these developments. The same is challenged in this OA.

7. The applicant contends that it was after a prolonged legal battle, that the respondents have remedied the situation to a substantial extent and when they were able to amend the rules and to remove the anomaly w.e.f. 06.05.2013, they could have done it w.e.f. 01.01.2006 also. Relief on these lines is claimed in this OA.

8. Respondents filed a counter affidavit opposing the OA. It is stated that the post of AD on the one hand and HO on the other hand, are totally different from the point of view of the qualification for recruitment and

nature of duties and having regard to the fact that there are no further promotional avenues to the post of HO, a higher scale of pay was recommended by the 6th CPC. It is also stated that taking into account the prolonged legal battle and with a view to give quietus to the entire issue, the pay scale for the post of AD has also been brought on par with that of the HO. It is stated that no employee has any vested right to claim the revision of pay scale with effect from any particular date.

9. The applicant filed rejoinder to the counter affidavit and subsequent pleadings have also ensued.

10. We heard Ms. Jasvinder Kaur, learned counsel for the applicant and Shri A.K. Singh, learned counsel for the respondents, in detail.

11. This is the third round of litigation in the context of the removal of anomaly in the pay scales. All through, the plea of the applicant was that the post of AD held by him and the post of HO, carry the same pay scale, the duties referable to both the posts were common and when the pay scale for the post of HO was stepped up on the recommendations of the 6th Pay

Commission, there was no basis for not extending the same to the post of AD. In fact, this was the premise on which the earlier rounds of litigation have ensued. However on a close scrutiny, it becomes clear that both the posts are substantially different from each other. For instance for the post of HO, the qualification for direct recruitment is Post Graduation in English with Hindi at graduation level or vice versa, whereas for the post of AD, it is only a graduation with experience in Journalism. The HO is a translation related post, that too from English to Hindi and vice a versa, whereas the post of AD is a public relation oriented post.

12. Secondly, there is no further promotion from the post of HO, whereas the post of AD has promotional avenues. The only meeting point for these two posts was that the promotion to them is from the same source, namely, Senior Hindi Translator (SHT for short). Here again, the distinction is maintained. For AD the required experience is 5 years, obviously, because there are no promotional avenues for the post of HO, the SHT with 3 years experience is made eligible to be promoted to that post.

13. It is not as if that the applicant is from the category of promotees. Taking a thread from this small common feature, he went on claiming similarity with the post and complained about when a higher scale of pay was fixed for the post of HO. After a prolonged legal battle and executive exercise, the Recruitment Rules have since been amended and the pay scale of the post of AD is now brought on par with that of HO.

14. The grievance of the applicant that the upgradation should have been with effect from 01.01.2006, is without any basis or merit. It has already been pointed out that two posts between which similarity was sought to be drawn are totally dissimilar. Without amendment in the Rules, the pay scales for the post of AD could not have been stepped up and that event occurred only in the year 2013. Unless there is any specific requirement in law that the stepping up should be invariably from 01.01.2006, the applicant can not insist that. No specific rule or precedent in this behalf, is brought to our notice.

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

16. All the MAs shall stand disposed of.

(Pradeep Kumar)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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