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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA No. 1102/2003

New Delhi, this the 18th day of December, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Bilash Bose,
EG-38, Inder Puri,
PO IARI,
New Delhi-12

...Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Lt. Governor,
Raj Niwas Marg,
Delhi.
2. Chief Secretary,
GNCT, Players Building,
ITO, New Delhi
3. Secretary,
Directorate of Training and Technical Education,
Muni Maya Ram Marg,
Pitampura, Delhi
4. Principal,
College of Art,
Tilak Marg,
New Delhi.

...Respondents

(By Advocate: Shri George Paracken)

ORDER

By Justice V.S. Aggarwal -

Applicant (Bilash Bose) joined the College of Art as a Lecturer in 1978. In November 1989, the Assistant Educational Adviser, Ministry of Education had issued an order stating that the benefit of of University Grants Commission scale of pay had been given to the Lecturers and Professors. The same had become effective from 1.1.1970. From 1.2.1983, the applicant was appointed




in a substantive capacity in the scale of Rs.700-1600/- and had completed 8 years of service on 14.11.1986. On 24.5.1990, the Directorate of Technical Education is stated to have conveyed the approval of the Lieutenant Governor to the revision of scales of pay with effect from 1.1.1986. It had mentioned that those teachers who have already been covered under the merit promotion scheme will have the option either to adopt the new scale or continue in the merit promotion scheme. On 11.7.1990, the officiating Principal, College of Art reminded all the Lecturers and draw their attention to para 4 of the letter dated 24.5.1990 and asked them to exercise their options as to whether they wanted to continue in the merit promotion scheme or not. On 6.9.1994, the applicant was promoted as Assistant Professor under the merit promotion scheme. The applicant contends that he completed 16 years of service on 14.11.1994. He became eligible for grant of selection grade as required under the Dogra Committee report. The Dogra Committee report had been accepted. Certain persons had been given relaxation, but the applicant is said to have been denied the said benefit. The grievance of the applicant is that as per the scheme, a Lecturer on completion of 8 years of regular continuous service becomes eligible for grant of the scale of Rs.3000-5000/-. A Lecturer who completes 16 years of service becomes eligible for selection grade of Rs.3700-5700/-. This is under the provision of Career Advancement Scheme of the Dogra Committee Report. The

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same had been implemented by the Government of India, but the just claim of the applicant is said to have been denied. Therefore, by virtue of the present application, the applicant prays that he should be granted the benefit of merit promotion scheme from 1.1.1993 with pay scale of Rs.3700-5700/ Rs.12000-18000/-from the same date and in the alternative to grant the benefit of Career Advancement Scheme in the pay scale of Rs.3700-5700/ Rs.12000-18000/- from 14.11.1994.

2. The application as such is being contested.

3. At the outset, we deem it necessary to mention that the learned counsel for the applicant had drawn our attention to a letter from All India Council for Technical Education addressed to the Secretaries (Technical Education) of all the States and the Union Territories. It points out that All India Council for Technical Education had constituted an expert committee to give clarification/anomalies pertaining to pay scales and service conditions of Teachers and it points out the decision taken in this regard. One of the decisions of which the applicant wanted to take advantage was that the Teachers who had been recruited prior to 1.1.1996 should be governed by the existing recruitment rules. The Committee recommended relaxation of qualification for such Teachers to consider them for Career Advancement Scheme in the grade of Lecturer and also those who were promoted before the implementation of revised All India Council for Technical Education pay scales and service conditions.



4. Since this question was not the subject matter of dispute before us and this fact had been pointed out during the course of submissions for the present, we are not expressing any opinion because only when the respondents take a decision in this regard, the applicant may seek his legal remedy.

5. The learned counsel for the applicant had pointed that certain other persons had been given the relaxation from the required qualifications which had been denied to the applicant and once it was so, the applicant had been discriminated.

6. Relaxation by itself is not a right. If the applicant refused the benefit accruing at a particular stage and still seeks relaxation, necessarily he had to apply for the same rather than making a cause in the original application before this Tribunal.

7. The facts indicated that the Government of India, Department of Education had introduced a scheme for merit promotion for teachers appointed in the Engineering and Professional Colleges vide the letter of 14.6.1984. Under the said scheme, the applicant was promoted to the post of Assistant Professor. The scheme clearly stated that the merit promotion is subject to the condition that said officer gives his option for the scheme. The applicant on 6.11.1997 stated that he was not interested in the merit promotion scheme offered to him. A copy of

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the letter has fairly been filed by the applicant and reads:-

"I have joined the college of Art as Lecturer on 15.11.78 and thus completed 8 years of regular continuous service on 14.11.86 and hence eligible for the pay scale of Rs.3000-5000 on the same date. Accordingly I have completed 16 years of satisfactory continuous service on 14.11.94 and thus became eligible for selection grade of Rs.3700-5700 under the career advancement scheme of the Dogra Committee Report implemented as per Govt. of India Ministry of HRD letter No.F.6-1/88/T5 dt. 28.2.89. (At the item No.14 of the same Report there is a provision that "the existing Lecturers who have completed or will complete a total period of 8 and 16 years of service on 1.1.86 or thereafter, will also be eligible for placement in the career advance pay scale of Rs.3000-5000 and selection grade of Rs.3700-5700 respectively."

All above mentioned scales are old now. After the implementation of Fifth Pay Commission the pay scale of Rs.3000-5000 has changed to Rs.10,000-15,200 and Rs.3700-5700 has changed to Rs.12000-18000.

It will not be irrelevant to mention here that the Directorate of Technical Education Govt. of NCT of Delhi has already implemented the same scheme for the Delhi College of Engineering and a large number of Lecturers have been benefited by this scheme and I would also prefer to obtain the same benefit.

Therefore, now I am not interested in the Merit promotion offered to me vide your letter No.F-4(11)84-87/CA 2061 dated 6.9.94 rather I may kindly be considered for career Advancement under Dogra Committee."

This clearly shows that the applicant himself had declined in specific words that he was not interested in the merit promotion scheme offered to him. There is no plea that the applicant intends to withdraw the said option and consequently the plea in this regard must fail.



8. Vide the subsequent letter, a scheme was introduced which is known as Career Advancement Scheme the operative part of the of which is as under:-

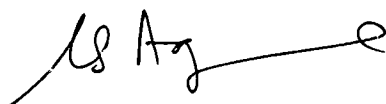
"11. In order to encourage research, in continuation of post graduate studies, candidates who, at the time of their recruitment as lecturers possess Master's and Doctoral degrees in Engineering/technology shall be granted 2 and 4 advance increments respectively and candidates who possess M.Phil and Ph.D degrees in Sciences and Humanities shall be granted 1 and 3 advance increments respectively in the scale of Rs.2200-4000 alongwith the benefit of corresponding years of service for the purpose of promotion. The existing Lecturers who do not possess these qualifications, or who might be recruited in future without these qualifications, will be eligible for a similar benefit in service for the purpose of promotion as and when they acquire these qualifications, but they will not be eligible for advance increments. Existing lecturers who possess these qualifications will also be eligible for the benefit in service for the purpose of promotion.

CAREER ADVANCEMENT

12. Every Lecturer will be placed in a senior scale of Rs.3000-5000 if he has

- completed 8 years of service after regular appointment with relaxation in service as provided in para 11 above;
- participated in two refresher courses or summer institutes each of approximately four weeks duration or in other comparable continuing education programmes approved by the All India Council for Technical Education; and
- consistently satisfactory performance appraisal reports."

Under the said scheme, one of the conditions was that the concerned person should participate in two refresher courses or summer institutes each of approximately four weeks duration or in other comparable continuing



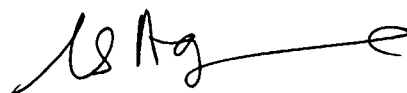
education programmes. The applicant did not fulfil the said qualifications. In that view of the matter, the applicant was not entitled to the benefit of the scheme.

9. The learned counsel for the applicant had very eloquently pointed that under paragraph 14 of the scheme, the applicant is entitled to the benefit. The said paragraph reads:-

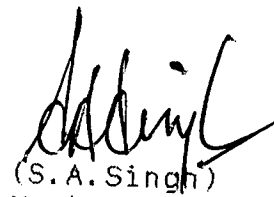
"Lecturers in the existing Selection Grade of Rs.1200-1900 in engineering colleges and other institutions will be placed at the appropriate stage in the revised Selection Grade of Rs.3700-5700 in accordance with the pay fixation formula under this scheme. Existing lecturers who have completed or will complete, a total period of sixteen years of service on 1.1.1986 or thereafter will be eligible for placement in the Selection Grade. They will also be entitled to the relaxation in the years of service as provided in para 11 above."

Perusal of the same would clearly show that this does not supersede the earlier part of the scheme that the person concerned must have participated in two refresher courses or summer institutes each of approximately four weeks duration which we have referred to above. It also appears that the applicant was not in the existing selection grade at the relevant time. Therefore, even the said paragraph will not come to his rescue.

9. Subject to, therefore, what we have observed above pertaining to which we have not expressed any opinion, the present application must fail and it must be held that the applicant is not entitled to the benefit




of the scheme in peculiar facts. The application is dismissed. No costs.



(S.A. Singh)
Member (A)

/sns/



(V.S. Aggarwal)
Chairman