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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1132/2003

New Delhi, this the 6th day of February, 2004³

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Mahinder Singh Chaudhary
College of Art
20-22, Tilak Marg, new Delhi .. Applicant

(Shri Arun Bhardwaj, Advocate)

versus

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

(Shri George Parackken, Advocate)

ORDER

Shri S.K. Naik

By virtue of the present OA, applicant seeks a direction to the respondents to grant him the benefit of Career Advancement Scheme (CAS) and accord the pay scale of Rs.3700-5700 (now revised to Rs.12000-18000) w.e.f. 1.1.1996 with all consequential benefits.

2. The applicant, who joined service as Physical Training Instructor (PTI) with the respondents on 14.6.1976, had earlier filed OA 3333/92 seeking parity of pay scale with similarly situated Physical Training Instructor/Physical Directors, which was allowed in favour of the applicant by Tribunal vide order dated 31.8.1999. In pursuance thereof, applicant was granted the scale of Rs.700-1600 (applicable to Director of Physical Education) w.e.f. 1.1.980, which scale

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according to the applicant was equal to that of Lecturer in the respondent-department. Since some of the relevant facts have already been discussed and taken care by this Tribunal while disposing OA 3333/92 we do not deem it necessary to reiterate the same here.

3. The claim of the applicant in the present OA is that he has completed 8 years of service on 1.1.88 as Director of Physical Education and therefore in accordance with CAS he was entitled to the pay scale of Rs.3000-5000. On acceptance of recommendation of Dogra Committee by MHRD and grant of relaxation of participation in two refresher courses by Respondent No.1, several Lecturers/Director Physical Education were placed in the selection grade of Rs.3700-5700 as well as in the senior scale of Rs.3000-5000. One such case was that of Shri J.C.Roy, Director, Physical Education who was granted the scale of Rs.3000-5000 w.e.f. 1.1.85.

4. According to the applicant he has completed 16 years in the pay scale of Rs.2200-4000 on 1.1.96 and therefore in terms of CAS, he is entitled to the grade of Rs.3700-5700. He has been making representations since 1998 in this connection, the last one being 7.2.2000, but without success. Hence the OA, seeking the aforementioned relief. In the meantime, by order dated 5.5.99 applicant's pay has been fixed in the pay scale of Rs.8000-13500.

5. Needless to state, the respondents have contested the application. They have stated in their reply that the post of PTI held by the applicant was not covered under Merit Promotion Scheme (MPS)/CAS and thus he could not be

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considered for grant of benefits under these schemes when the cases of other Lecturers were taken up in the year 1990. However, he was granted parity of pay scale with that of the Directors of Physical Education in other Colleges in April, 1999 subsequent to the order of this Tribunal dated 31.8.1998 in OA 3333/92 (supra). The "Scheme for Merit Promotion for Teachers appointed in the engineering and Professional Colleges in UTs introduced by the Government of India (Department of Education) vide letter dated 11.6.81 was replaced by CAS as per Dogra Committee's recommendation as conveyed by the MHRD vide letter dated 28.2.1989. These were accepted by GNCT and accordingly orders were issued on 24.5.1990. Since the applicant was then not holding the post of Director, Physical Education his case could not be considered.

6. As regards applicant's contention that lecturers were placed in the scale of Rs.3700-5000, respondents explain that this scale was given only to those Lecturers who had already been promoted to the post of Assistant Professor under MPS in respect of College of Art. Applicant is not covered under MPS as this scheme has been replaced by CAS and that he was working as PTI and not Lecturer. His scale was upgraded at par with Lecturer as a result of the directions in OA 3222/92 (supra). With regard to promotion of Shri J.C.Roy, Director Physical Education, vide order dated 10.2.95, respondents would submit that relaxation from attending refresher course was given as one time measure as specially mentioned therein by the Lt. Governor and the same is not applicable to the applicant who was promoted retrospectively in terms of judgement in 3222/92 (supra) decided on 31.8.98. In so far applicant's claim for promotions on completion of

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8/16 years, respondents contend that the same is subject to fulfilment of requisite conditions i.e. attending of atleast two refresher courses of four weeks duration each and consistently good performance appraisal reports etc., whereas the applicant has not completed this requirement. Moreover, his eligibility for placement in higher scale of pay will be w.e.f. the date he is placed in the pay scale of Director, Physical Education. In so far applicant's various representations are concerned, respondents submit that they cannot take up applicant's case as an isolated one but cases of all eligible teachers are being compiled college-wise and the same will be submitted before the Selection/Screening Committee. This process is already under way and necessary benefits will be granted to all eligible candidates in due course.

7. We have heard the learned counsel for the parties and perused the records.

8. The main plank of attack by the applicant in support of his claim is that respondents have granted CAS to S/Shri Vijay Mohan and B.D.Gupta without any refresher course from the post of Assistant Professor/Lecturer to that of Professor/Asstt. Professor while the applicant has been left out illegally. Besides, order dated 29.11.91 contains names of five such persons who have not done refresher course. Also UGC has decided to grant CAS to those teachers who are superannuating within next three years and they have been exempted from attending refresher courses. The applicant is superannuating within three years and such exemption should be given to him by granting the scale of Rs.12000-18000.

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9. On the other hand, respondents' counsel submits that S/Shri Vijay Mohan and B.D.Gupta were promoted under MPS which does not require undergoing refresher course and not CAS. Also relaxation from attending refresher course granted by Lt. Governor was only a one-time measure as has been clearly mentioned in order dated 10.2.95 itself. In terms of the directions in OA 3222/92, applicant was given retrospective benefit from 1.1.1980 and he was placed in the scale of regular lecturer and therefore his services will be counted from 1.1.80 for the purpose of granting senior/selection scale if otherwise found eligible. CAS was extended to teachers by AICTE on the recommendation of Dogra Committee and not by UGC. Therefore exemption given by UGC is not applicable to teachers of technical/vocational institutions. The counsel has however fairly conceded that the case of applicant is under consideration and the benefit under CAS would be extended to him provided he fulfils the eligibility conditions laid down under the Dogra Committee's recommendation.


10. After the arguments were concluded, applicant has further submitted some additional documents, on which he is staking his claim, including a copy of judgement dated 18.12.2003 in OA 1102/2003 various orders passed by respondent-department regarding revision of pay scales of teachers, merit promotion of teachers in College of Art, clarification issued by AICTE regarding pay scales and service conditions for teachers of Degree/Diploma level Technical institutions etc. We have carefully gone through all these documents. In fact, the applicant in OA 1102/2003 is a Lecturer in College of Art who sought

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the benefit under MPS or CAS. That OA was dismissed. It is not understood how this judgement would assist the applicant. As regards other documents, we find that they also do not come to the rescue to the applicant inasmuch as a perusal of order dated 22.7.1999 issued pursuant to the decision dated 31.8.98 in OA 3222/98 (supra) shows that the post of PTI which the applicant was holding was upgraded to that of Director Physical Education w.e.f. 1.1.80 in the pay scale of Rs.700-1600 and subsequently in the pay scale of Rs.2200-1000 w.e.f. 1.4.1986 thus bringing him at par with Lecturer. Applicant has not challenged this order and therefore this has become final. We further find that the clarification issued by AICTE is applicable to only Teachers, Librarians and Directors of Physical Education of Degree Level Engineering and Technological Colleges and not to others. Obviously, the applicant cannot compare himself with, Shri J.C.Roy, who is working in Delhi College of Engineering and was granted relaxation as a one-time measure. That apart, respondents themselves have conceded that they are considering the case of applicant alongwith other eligible candidates for grant of promotion subject to their fulfilling all eligible criteria.

11. In view of what has been discussed above, we find no merit in the present OA warranting our intervention. Hence the OA must fail and is accordingly dismissed. No costs.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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