

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1959/2003
M.A.No.1672/2003

New Delhi this the 4th day of ^{June}~~May~~, 2004

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

Smt. Urmila Punj
W/o Shri S.N. Punj, R/o A-43/A, New Multan Nagar,
Delhi-110 056. ...Applicant
(By Advocate: Shri S.K. Gupta)

Vs.

1. Union of India,
Through Secretary,
Department of Personnel & Training,
North Block, New Delhi.
 2. The Secretary,
Ministry of Tourism
Govt. of India, Transport Bhawan,
New Delhi.
 3. Board of Governors,
Through its Chairman,
Institute of Hotel Management,
Catering and Nutrition, PUSA, New Delhi-12.
 4. The Principal
Institute of Hotel Management,
Catering and Nutrition,
PUSA, New Delhi-12. ... Respondents
- (By Advocate: Sh. N.S. Mehta)

O R D E R

Hon'ble Shri R.K. Upadhyaya, Member (A).

MA 1672/2003

For the reasons mentioned in the misc.
application, the delay in filing the OA on 12.5.2003
assailing the impugned order dated 29.4.2002 is
condoned. MA 1672/2003 is accordingly allowed.

OA 1959/2003

This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed
seeking a direction to the respondents to consider the
case of the applicant for placing her in the scale of
Rs.1400-2600 from the date of issue of O.M. dated
12.8.1991 with all consequential benefits.

Chinnayam

2. It is stated by the applicant that she joined the office of respondent No.4, the Principal, Institute of Hotel Management, Catering and Nutrition, Pusa, New Delhi, in the pay scale of Rs.130-300 on the post of Librarian as per appointment letter dated 23.9.1970. This scale was replaced on account of recommendations of 3rd Pay Commission to Rs.330-560. After acceptance of the 4th Pay Commission recommendations, the applicant was placed in the pay scale of Rs.1200-2040 being the replacement scale of Rs.330-560. It is claimed by the applicant that a Committee was constituted to undertake review of the pay scale, qualification and recruitment levels of responsibility of the library staff. On the basis of this Committee's recommendations, the pay scale of Rs.1200-2040 was suggested to be upgraded to Rs.1400-2600 with designation of Library Information Assistant. According to the applicant, O.M. dated 24.7.1990 (Annexure A-3) introduced the pay structure of library staff inasmuch as exiting pay scales of Rs.1200-1800, Rs.1200-2040, Rs.1320-2040, Rs.1350-2200, Rs.1400-2300 and Rs.1400-2600 were all to be replaced by pay scale of Rs.1400-2600 and the designation of Library Information Assistant was to be given. It was further provided that this post and scale was for direct entry graduate with Bachelor in Library Science/Promotional Grade for 'Lib. Clerks'. The claim of the applicant is that accordingly, O.M. dated 12.8.1991 (Annexure A-4) regarding "Model Recruitment Rules for various categories of Group 'C' and 'D' posts in the Library Discipline" was issued. This O.M.

Am 30/9/91

dated 12.8.1991 was issued incorporating the Model Recruitment Rules based on the suggestions contained in the O.M. dated 24.7.1990 and provide as follows:

"2. In the above referred OM dated 24.7.90 persons working in the various pay scales (Rs.1200-1800, Rs.1200-2040, Rs.1320-2040, Rs.1350-2200, Rs.1400-2300, Rs.1400-2600) have been placed in the revised pay scale of Rs.1400-2600 with the designation of Library & Information Assistant. It is possible that junior persons possessing the requisite qualification would get the pay scale of Rs.1400-2600 whereas some seniors would not get the same due to the fact that they do not possess the requisite qualification even though they may be performing the same type of duties. In such cases it would be desirable to include these posts also as feeder posts for promotion to the grade of Library & Information Assistant with minimum number of years of service for each grade as prescribed in the guidelines contained in this Department's O.M. No.AB.14017/12/87-Estt.(RR) dated 18.3.88. This would, of course be without insisting on the qualifications prescribed for direct recruitment for this post. This is being suggested as, while there would be no recruitment in future to all those grades, it would be necessary to provide for some promotional avenues for persons presently working in those grades so that they do not stagnate for their entire career in the same grade.

3. All the Ministries/Departments are requested to adopt these Model Rules with suitable modifications, if necessary depending upon their peculiar requirements. However, in case of any deviations from these Model Rules the approval of this Departments may obtained".

The Model Recruitment Rules provided for the post of Library and Information Assistant educational and other qualifications required for direct recruits as follows:

"Educational & other: qualifications required for direct recruits.	Not Applicable in case direct recruitment is not a method of recruitment. In case direct recruitment is method of recruitment, the following provision may be kept:-
--	--

Essential :

AmBapurn

4)

- 1) Degree of recognised university or equivalent ;
- 2) A degree in Library Science from a recognised university or equivalent;

Note :

Qualifications are relaxable at the discretion of the SSC/competent authority in case of candidates otherwise well qualified".

3. The claim of the applicant is that in terms of the above O.M. of Model Recruitment Rules, the respondents should have given the pay scale of Rs.1400-2600 to the applicant w.e.f. the date of issue of O.M. dated 12.8.1991. Since the same was not given to the applicant, a representation dated 12.12.1997 (Annexure A-5) was sent. Since there was no reply forthcoming, the applicant filed CWP No.6463 of 1998 before the Hon'ble High Court of Delhi claiming the scale of pay of Rs.1400-2600. This CWP was transferred to this Tribunal with TA No. 10 of 2000 and the same was disposed of by order dated 30.8.2001 with a direction to the respondents to dispose of the representation of the applicant, taking into consideration the circular dated 12.8.1991 by a reasoned, speaking and detailed order. Pursuant to the directions of this Tribunal, the impugned order dated 29.4.2002 (Annexure A-2) has been passed. The main reason given for rejecting the claim of the applicant is that the earlier pay scale of Librarian was Rs.330-560 whereas the present pay scale claimed at Rs.1400-2600 was also the pay scale of other superior staff like PA to Principal and 'If the Librarian working in IHMS is given the pay scale of Rs.1400-2600 which Mrs. Urmila Punj, Librarian, IHM Pusa, New Delhi is demanding, then she would get a scale which would be higher than

Amr

(5)

that of PA to Principal, Assistant Superintendent, Maintenance Foreman-cum-Caretaker who were in higher scale of pay as compared to Librarian'. It was further observed that 'The financial position of some IHMS is not sound and they would find it difficult to bear the additional financial burden'. Referring to the Model Recruitment Rules prescribing the higher scale of Rs.1400-2600, it has been observed that 'if the incumbent has a qualification of Graduate with Bachelor in Library Science'. In view of the fact that the applicant Mrs. Punj was a Graduate with Diploma in Library Science, it has been considered that her qualifications were less than that prescribed as per Model Recruitment Rules. In the impugned order, the respondents have also taken a plea that the qualifications for the post of Librarian at IHMS were less than that prescribed by Govt. of India O.M. dated 12.8.1991. As per the Recruitment Rules of 1991 of the IHMS, the qualification of Librarian is "Graduate with Diploma in Library Science and three years experience of working in a Library". It has, therefore, been decided by the respondents that the pay scale as observed in the Model Recruitment Rules annexed with O.M. dated 12.8.1991 could not be applicable in the case of the applicant. The applicant has filed additional affidavit and Recruitment and Promotion Rules, 2003 have been enclosed therewith. According to the applicant, the essential qualification for the post of Librarian in the pay scale of Rs.4000-6000 is "Degree in Library Science from a recognised University or Graduate with Diploma in Library Science from recognised University with three years experience of working in a Library". According to the applicant, there is no change in the qualifications inasmuch as the requirement of Graduation in Library

AmB 37/2003

(6)

Science is only optional as Graduate with diploma in Library Science with three years experience is also an equivalent qualification. It was, therefore, urged that the reasons given in the impugned order are no longer valid and the respondents be directed to grant the pay scale of Rs.1400-2600 w.e.f. the date of issue of O.M. dated 12.8.1991 with all consequential benefits.

4. The respondents have filed reply and have opposed the application. According to the respondents, the staff pattern of IHMS is very small. PAs to Principal were in a higher pay scale of Rs.425-700 whereas the applicant was in the pay scale of Rs.330-560. According to the respondents, the Govt. of India, Ministry of Finance vide their O.M. dated 24.7.1990 introduced the new pay structure of Library staff. Such staff was to be placed in the pay scale of Rs.1400-2600 with the condition that the applicant must be having the qualification of Graduation plus Bachelor Degree in Library Science. The applicant is a Graduate and has completed her Diploma in Library Science by correspondence. Therefore, she was not eligible for the higher pay scale, as claimed.

5. In the rejoinder filed, the applicant has stated that the new higher pay scale as per O.M. dated 24.7.1990 and O.M. dated 12.8.1991 recommending scale of Rs.1400-2600 were never adopted as the recruitment rules were not finalised. According to the applicant, O.M. dated 24.7.1990 prescribes the qualification for the post of Library Information Assistant for direct recruits. The O.M. dated 12.8.1991 prescribes the Model Recruitment Rules for both the posts of Library Clerk as

C. H. 307 am

well as the Library and Information Assistant. Though there is need to have the Degree in Library Science for the direct recruit which also provides for promotion from Library Clerks with 3 years experience, the new Recruitment Rules framed on 29.1.2001 provided for two posts, namely, Librarian in the scale of Rs.4000-6000 and Assistant Librarian in the scale of Rs.3050-4500. These rules further provided that the posts of Librarian are to be filled by promotion, failing which by direct recruitment. The claim of the applicant is that she holds the post of Librarian from promotion quota. By an additional affidavit, the applicant has placed on record the Recruitment and Promotion Rules, 2003 which provide for essential qualification of a Librarian in the pay scale of Rs.4000-6000 as Degree in Library Science or a Graduation in Library Science with three years experience of working in a library. The applicant claims that from any point of view, the applicant was always eligible for higher pay scale of Rs.1400-2600 (pre-revised). Therefore, the present application deserves to be allowed with costs.

6. We have heard the learned counsel for the parties and perused the material available on record.

7. There is no dispute that the applicant was appointed as Librarian as per appointment letter dated 23.9.1970 in the pay scale of Rs.130-300. Subsequently, this scale of Rs.130-300 was replaced by the scale of Rs.330-560 on the recommendations of the 3rd Pay Commission. The replacement scale of Rs.1200-2040 was given to the applicant as per recommendations of the 4th Pay Commission. However, it was decided by the

AmBngum

Government to appoint a Committee to look into the anomalies of the pay structure relating to the staff working in the Library. As per the recommendations of this Committee, the various existing pay scales of Rs.1200-1800, Rs.1200-2040, Rs.1320-2040, Rs.1350-2200, Rs.1400-2300 and Rs.1400-2600 were revised to Rs.1400-2600 as per Notification dated 12.8.1991 and the designation was changed to Library Information Assistant. It was further provided that direct entry graduates with Bachelor of Library Science be posted to such a post of Library Information Assistant. However, the post was also a promotional grade post for Library Clerks. The respondents have rejected the claim of the applicant for grant of higher pay scale on two grounds. Firstly, it is stated that the PAs to the Principal will also be in the same pay scale as the Librarian though they were earlier having higher pay scale of Rs.425-700. The other major ground for rejection is that the applicant does not have the qualification of Graduation in Library Science. In our opinion, the reasons given are not in conformity with the facts. The new designation of Library Information Assistant as per Notification dated 12.8.1991 provided for Graduation with Bachelor in Library Science for direct entry as Library Information Assistants only. However, it remained to be a promotional grade for Library Clerks also. For Library Clerks, the requirement of Bachelor in Library Science is not an essential qualification. Therefore, the rejection of the claim of the applicant on the ground that she does not hold Graduation in Library Science was based on wrong premises as she was eligible for being considered for promotion to the post of Library Information Assistant as she had Graduation Degree with Diploma in a Library Science which

AmBrygusM

was the essential qualification for Library Clerks. She also had requisite experience for being promoted. Even the subsequent posts upto 2001-2003 referred to by both the sides also provided for such a qualification for the post of Library Clerk. The applicant being eligible for being appointed as Library Clerk all along is entitled to get promoted to the higher pay scale as Library Information Assistant in terms of the Notification dated 12.8.1991. The rejection of the claim of the applicant for grant of higher pay scale on the ground that the PAs to Principal were in higher pay scale than the pay scales of Librarian is also not based on proper appreciation. There, the rejection of the applicant's claim on this ground was not justified.

8. Similar question came for consideration before Ahmedabad Bench of this Tribunal in the case of H.B. Desai Vs. Union of India & Ors. in OA No.35/1993 as well as subsequent order of Ahmedabad Bench dated 7.3.2002 in OA No.693/2000. The Ahmedabad Bench of this Tribunal in the case of H.B. Desai (supra) observed as follows:-

".....However, for the next higher post of Library Clerk, direct recruitment is provided for which, the required qualification is Matriculation. It is worthwhile to note at this juncture that the post of Library Clerk is not considered to be a promotional post and it is to be filled up only by direct recruitment. However, the post of Library and Information Assistant is provided with the two avenues of recruitment viz. direct recruitment as well as promotion from the Library Clerk. Now so far as the direct recruitment is concerned, the qualification prescribed is B.A./B.Sc./B.Com. plus Bachelor of Library Science. There is no mention of any such qualification so far as the promotional column is concerned. It becomes, therefore, quite evident that when the post of Library and Information Assistant is to be filled up by promotion then, no question of

Signature

Library Clerk possessing the qualification of Bachelor of Library Science arises. This qualification of a candidate holding Bachelor of Library Science along with education is prescribed only when it is filled up by direct recruitment. The distinction between the two is also quite obvious. Since for feeder cadre of Library Clerk, the qualification prescribed is of only passing of matriculation, on promotion to the post of Library and Information Assistant, the Library Clerk cannot be expected to possess the qualification of Bachelor of Library Science. Even a lay man can understand this aspect of the matter. However, inspite of this position, and inspite of this clear distinction between the qualification of direct recruitment and the promotional cadre of Library Clerk, the respondents have chosen to object the request of the applicant for being placed in the grade of 1400-2600. What is surprising is that they have adhered to their rejection inspite of subsequent O.M. issued by the Government of India dated 19.8.82 clarifying this position. In this O.M. No. AB 14017/43/91-Estt (RR) dated 19.8.82 issued by the Ministry of Personnel, P.G. & Pensions referring to the O.M. No. 9 (1)/1C/86 dated 24.7.90, it is clarified as under:-

"In the above referred O.M. dated 24.7.90 persons working in the various pay scales (Rs.1200-1800, 1200-2040, 1320-2040, 1350-2200, 1400-2300, 1400-2600) have been placed in the revised pay scale of Rs.1400-2600 with the designation of Library and Information Assistant. It is possible that junior persons possessing the requisite qualification would get the pay scale of Rs.1400-2600 whereas some seniors would not get the same due to the fact that they do not possess the requisite qualification even though they may be performing the same type of duties. In such cases it would be desirable to include these posts also as feeder posts for promotion to the grade of Library and Information Assistant with minimum number of years of service for each grade as prescribed in the guidelines contained in this Department's O.M. No. AB 14017/12/87-Estt (RR) dated 10.3.83. This would of course be without insisting on the qualifications prescribed for direct recruitment for this post. This is being suggested as while there would be no recruitment in future to all these grades, it would be necessary to provide for some promotional avenues for persons presently working in those grades so that they do not stagnate for their entire career in the same grade".

In spite of clarification by the Government it is unfortunate that the respondents have kept on presuming that since the applicant did not possess the requisite qualification he was not

Chengam

(21)

entitled to be placed in the revised pay scale of Rs.1400-2600. It is, therefore, obvious that the refusal of the respondents to place the applicant in the scale of Rs.1400-2600 is not only bad and arbitrary also smacks of some malice".,

9. For the reasons mentioned above, the O.A. is allowed. The respondents are directed to consider the claim of the applicant for grant of higher pay scale of Rs.1400-2600 in term of Notification dated 14.8.1991. In case it is considered necessary, they may hold a DPC for promotion to the post of Library Information Assistant and the provide the higher pay scale to the applicant.

10. Accordingly, the O.A. is allowed without any order as to costs.



(R.K. Upadhyaya)
Member (A)



(V.S. Aggarwal)
Chairman

"SRD"