

10
CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA-2572/2003

New Delhi this the 12th day of May, 2004.

Hon'ble Shri Shanker Raju, Member(J)

Hon'ble Shri S.K. Naik, Member(A)

1. Dr. Raj Kumar Tewari,
Assistant Curator(N&E),
National Museum,
Janpath, New Delhi.
2. Anju Sachdeva,
Assistant Curator,
(Anthropology)
National Museum,
Janpath, New Delhi.
3. Sanjib Kumar Singh,
Deputy Curator,
(Exhibition Cell)
National Museum,
Janpath, New Delhi.
4. Dr. Binoy Kumar Sahay,
Assistant Curator(N&E),
National Museum,
Janpath, New Delhi.
5. J.C.. Grover,
Assistant Curator (PH&Arch.),
National Museum,
Janpath, New Delhi.
6. Tejpal Singh,
Assistant Curator(Arch.),
National Museum,
Janpath, New Delhi. Applicants

(through Sh. R.K. Singh, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Tourism and Culture,
Department of Culture,
Shastri Bhawan,
New Delhi..
2. National Museum,
through Director General,
National Museum,
Janpath, New Delhi. Respondents

h
(through Sh. Rajinder Nischal, Advocate)

ORDER (ORAL)
Hon'ble Shri Shanker Raju, Member(J)

11

Applicant have assailed respondents' orders dated 8.3.2000 and 27.8.2002 whereby the pay scale of Rs.8000-10500/- under the Assured Career Progression Scheme has been denied to them. Applicants have also sought consequential benefits of arrears and interest.

2. At the outset on the first date, learned counsel of the applicants has forgone relief 8(d) pertaining to amendment of Recruitment Rules for which liberty has been accorded to file a separate proceeding.

3. Applicants are Technical Assistants and part of curatorial staff of the National Museum. Vide Notification dated 21.12.1998 on the recommendations of Vth Pay Commission the two cadres of Curatorial Associates and Technical Assistants have been merged.

4. By an O.M. dated 15.4.2002 for the restructured post of Assistant Curatorial the pay scale of Rs.5500-9000/- was specified with a promotional post of Deputy Curator in the pay scale of Rs.8000-13500/-. On coming into operation the ACP the applicants have been placed from different dates in the pay scale of Rs.6500-10500/- as per the existing Recruitment Rules. This gives rise to the present O.A.

5. Learned counsel of the applicants assailed the impugned orders on the ground that non grant of scale of Rs.8000-10500/- under ACP is discriminatory and is violative of Article 14 of the Constitution of India. The next pay scale in hierarchy on promotion is of Deputy Curator is in the pay scale of Rs. 8000-13500/-. Accordingly non-amendment of the Recruitment Rules despite decision of the Government of India DOP&T O.M. dated 25.5.1998 has deprived the applicants of their due entitlements from retrospect.

6. Learned counsel relies upon the following decisions to contend that there should be fairness for the said action and it should not be arbitrary:-

A.P. Aggarwal Vs. Govt. of NCT of Delhi
& Another (2000(1)SCC 600
Badrinath Vs. Govt. of Tamil Nadu and
Others (2000(8) SCC 395)

7. On the other hand respondents' counsel Sh. Rajinder Nischal vehemently opposed the contentions but stated that the Recruitment Rules for the post of Assistant Curator are in the process of revision. By referring to the conditions and attached to the ACP Scheme, it is contended that as per Para-7 final upgradation to the next higher grade should be in accordance with the existing hierarchy. Accordingly, it is contended that as per the existing Recruitment

Rules for the posts of Assistant Curator are in the feeder cadre of promotion to the post of Research Officer and accordingly the pay scale of Rs.6500-10500/- has been granted to the applicants.

8. On careful consideration of the rival contentions of the parties, we are of the considered view that on merger of two cadres and as per respondents' Office Order dated 15.4.2002 Deputy Curator is the promotional post in the pay scale of Rs. 8000-13500/-. It is very hard on the applicants that the Recruitment Rules are yet to be amended. However, keeping in view the statement of the respondents that the Recruitment Rules of the post of Assistant Curator are in the process of revision, O.A. is disposed of with the direction to the respondents to expedite the process and revise the Recruitment Rules within a period of three months from the date of receipt of a copy of this order. While doing so, the hardship caused to the applicants and their contention raised herein shall also be considered. After finalisation of the Recruitment Rules the respondents shall also consider grant of desired pay scale to the applicants under ACP Scheme. No costs.

S. K. Naik
(S.K. Naik)
Member(A)

S. Raju
(Shanker Raju)
Member(J)