

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 2143/2003
with
O.A. 2609/2003

(A)

New Delhi this the 17th day of May, 2004

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

O.A. 2143/2003

Sudha Kalra,
W/o K.L. Kalra,
221 D, Pocket - C (Group C, Librarian),
Sidhartha Ext.,
New Delhi. ... Applicant.

(By Advocate Shri Harvir Singh)

Versus

1. Union of India,
through its Secretary,
Ministry of Information &
Broadcasting,
Shastry Bhawan,
New Delhi.
2. The Director General,
Doordarshan,
Mandi House,
New Delhi-110001.
3. The Director,
Doordarshan Kendra,
Sansad Marg,
New Delhi-110001. ... Respondents.

(By Advocate Shri S.M. Arif)

O.A. 2609/2003

1. Kum. Manju Srivastava,
Sr. Librarian,
All India Broadcasting House,
Parliament Street,
New Delhi-110001.
2. Smt. Indu Grover,
Sr. Librarian,
External Services Division
All India Radio
Broadcasting House
Parliament Street,
New Delhi-110001. ... Applicants.

(By Advocate Shri S.Y. Khan)

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Versus

1. Union of India,
through its Secretary,
Ministry of Information &
Broadcasting,
Shastri Bhawan,
New Delhi.
2. The Director General,
All India Radio/Chief
Executive Officer,
Prasar Bharti,
Akashvani Bhawan,
Akashvani Bhawan,
New Delhi.
3. Station Director,
All India Radio,
Broadcasting House,
Parliament Street,
New Delhi. Respondents.

(By Advocate Shri S.M. Arif)

O R D E R (ORAL)

Hon'ble Shri R.K. Upadhyaya, Administrative Member.

Both these O.As filed under Section 19 of the Administrative Tribunals Act, 1985 are decided by this common order as the facts as well as reliefs claimed are similar.

O.A.2143/2003.

2. The applicant is aggrieved by the order dated 18.7.2003 rejecting her representation for grant of pay scale of Librarian of Rs.1400-2600 w.e.f. 24.7.1990. She joined as a Librarian in 1974. She is a graduate and possesses a diploma in Library Science.

O.A.2609/2003.

3. This application has been filed jointly by Ms. Manju Srivastava, applicant No.1 and Smt. Indu Grover, applicant No.2, assailing rejection of their representations as per Memorandum dated 10.9.2003

Manju Srivastava

(Annexure A-2) and 25.8.2003 (Annexure A-1), respectively. It is stated by the applicants that both of them joined as Librarian in 1974. Both of them are graduates and possess diploma in Library Science.

4. In both these O.As, extension of benefit of judgment of Ahmedabad Bench of this Tribunal in the case of H.B. Desai Vs. Union of India & Ors. (O.A. No. 35/93) as well as subsequent order of the Ahmedabad Bench dated 7.3.2002 in O.A.693/2000 is claimed. The arguments of the applicants in both these applications are that the recruitment rules for Library Information Assistant prescribe graduation with graduation in Library Science for direct recruits only. This qualification is not applicable in respect of promotees. In this connection, it is pointed out that initially there was only provision of direct recruits as Librarian but on account of recommendations of Chattopadhyaya Committee, the Central Government has issued pay scales for Library staff and office memorandum dated 24.7.1990 was issued providing for designation, existing scale, revised pay scale with the remarks column as follows:

S.No.	Designation	Existing pay scale	Revised Pay scale	Remarks
1.	Jr. Library Attendant	759-940	759-940	Direct entry Middle Pass
2.	Library Attendant	775-1025	775-1025	Promotional Grade
3.	Sr. Library Attendant	800-1150	800-1150	Direct Entry Matriculation
4.	Library Clerk	825-1200 950-1400 950-1500 975-1500 975-1540 975-1660	950-1500	Direct Entry Matriculation

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5. Library Information Assistant	1200-1800 1200-2040 1320-2040 1350-2200 1400-2300 1400-2600	1400-2600	Direct entry Graduate with Bachelor in Lib. Science/Pro- motional Grade for Library Clerks".
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5. The Annexure-1 of the O.M. provides the necessary qualification for recruitment of different posts. For three posts of Junior Library Attendant, Library Attendant and Senior Library Attendant being not relevant are not discussed. For the post of Library Clerk in the scale of Rs.950-1500, matriculation was prescribed as essential qualification and such posts were to be filled by direct recruit only. The qualification for the next higher post of Library Information Assistant in the scale of Rs.1400-2600 for direct recruits is stated as "B.A./B.Sc, B.Com plus Bachelor of Library Science". For promotion, it is stated that "Promotion Grade for Library Clerk". It was, therefore, urged by the learned counsel for the applicant that Graduation with Graduation in Library Science is prescribed qualification of direct recruits only whereas for promotion to this grade, the requirement is that of promotional grade for Library Clerks. According to him, when the post is to be filled up by promotion, there was no question of Library Clerk possessing the qualification of degree Bachelor of Library Science. Strong reliance was placed on the decision of Ahmedabad Bench of this Tribunal dated 26.11.1999 in O.A. No. 35/1993 in the case of H.B. Desai (supra). It is informed by the learned counsel of the applicants that the Department has implemented the judgment in the case of H.B. Desai (supra) as well as in the case of Kum. Jiviben Bhatt Vs. Union of India & Ors. (OA 693/2000),

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decided on 7.3.2002. Lastly, it was stated that the respondents as model employer should not compel everybody to come to Courts for redressal of their grievances. Distinction made out by the respondents as per their impugned orders rejecting the representations, therefore, deserves to be quashed and set aside and the respondents should be directed to grant higher pay scale of Rs.1400-2600 w.e.f. 24.7.1990 with all consequential benefits.

6. The respondents have opposed these applications as according to the respondents the essential qualification of Bachelor Degree in Library Science is not possessed by any of the three applicants who have filed these two applications. The respondents in their reply further stated that the decision of the Tribunal in the case of H.B. Desai (supra) cannot be treated as a precedent. According to the respondents, the applicants are eligible for being given Assured Career Progression Scheme benefit on completion of 12/24 years of service even though they may not be having Degree in Library Science. Therefore, these applications deserve to be dismissed.

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

8. So far as the basic facts are concerned, there is no dispute. The applicants are claiming higher pay scale of Rs.1400-2600 in terms of the Govt. of India O.M. dated 24.7.1990. There is no doubt that the prescribed qualification for the post of Library Information

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Assistant is Graduate with Graduate in Library Science for direct recruits only. The applicants do not wish to be considered as direct recruits but seek the benefit of the O.M. being eligible for promotion to the Library Information Assistant grade from the post of Library Clerk. It is also not under dispute that as per the O.M. dated 24.7.1990, the requirement of educational qualifications in respect of Library Clerk does not include possession of Graduation with Graduation in Library Science. On the other hand, the basic minimum qualification is only matriculation. Such Library Clerks with requisite number of service in Library are eligible for being promoted to the next higher grade of Library Information Assistant. This very issue came for consideration before the Ahmedabad Bench of this Tribunal wherein the matter was discussed in detail in H.B. Desai's case (supra) 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 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

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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 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. We do not find any justification in the submissions made by the learned counsel of the respondents that the above order in the case of H.B. Desai (supra) cannot be treated as precedent. On the other hand, we

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find this is well reasoned order giving interpretation to the Rules on the subject. It may be clarified that we do not consider it necessary to deal with other arguments in greater detail put forth by the learned counsel for the respondents regarding promotion of the applicants under Assured Career Progression Scheme. The object of that Scheme is altogether different. Therefore, even if the applicants were given ACP benefits, it will not preclude the applicants for grant of higher pay scale. We, therefore, allow these applications, with a direction to the respondents to place the applicants in the O.As in the scale of Rs.1400-2600 w.e.f. 24.7.1990 with all consequential benefits. This order will be given effect within 3 months from the date of receipt of a copy of this order by the respondents. No order as to costs.

10. A copy of the present order be placed in both the OAs.

(R.K. Upadhyaya)
Member (A)

'SRD'

(Shanker Raju)
Member (J)