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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 3066/2003

May,
NEW DELHI THIS 11th DAY OF, 2005

HON'BLE SHRI JUSTICE V S AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Jagdish Chandra Roy
(Retd. Director of Physical Education Delhi College of Engineering,
GNCT, Delhi)
R/o Flat 93, Pkt 4, Sector 12,
Dwarka, New Delhi – 110045

.....Applicant

(By Advocate: Shri Arun Bhardwaj)

VERSUS

1. Lt. Govt. of Delhi, Raj Niwas,
Raj Niwas Marg, New Delhi.
2. GNCT through Chief Secretary,
Players Building, ITO, New Delhi
3. Secretary,
Dte of Training and Technical Education,
Maya Muni Ram Marg, Pitampura, Delhi
4. Principal, Delhi College of Engg.
Badli, New Delhi.

.....Respondents

(By Advocate: Shri S. Kazim)

ORDER

BY HON'BLE SHRI S.A. SINGH, MEMBER (A)

The applicant joined Delhi College of Engineering (DCE) as Director Physical Training on 10.1.1966, in the pay scale of Rs.375-650/- . In 1972 his pay was brought on par with the Lecturer of DCE and revised to Rs.400-950/- and designation was changed from Director Physical Training to Director Physical Education and he was recognized as Teacher of Delhi

University vide Delhi University letter No. 17(21)/80-CB/2263 dated 29.4.1980. However, his name was not included in the list (dated 19.12.1986) of 18 similarly placed Lecturers for fixing his pay after giving benefits of FR 22(c). In 1989 vide order-dated 30.10.89 the pay of the applicant was revised from Rs. 700-1300/- p.m. to Rs.700-1600/-p.m. w.e.f. 1.4.80 and the pay was further revised w.e.f. 1.1.1986 to Rs.2200-4000/-.

2. The applicant made a representation on 14.6.90 asking for grant of the scale of Rs.1200 – 1900/- under the Merit Promotion Scheme w.e.f. 1.1.83 on the ground that there was little benefit on being placed in the scale of Rs.700-1600/- because as per Pay Commission recommendations he had already been granted the corresponding pay scale of Rs.2200 – 4000/- by merging the two scales. However, this was not agreed to and on 9.3.1992 an order retiring him from service w.e.f. 30.04.1993 on attaining the age of 58 years was issued. According to the applicant this was an unfair order as extension of two years in service is given in the normal course to a Lecturer of the College. The applicant represented to the Principal on 1.12.1992 for grant of an extension in service for two years as is given to the other lecturers without exception, which was not acted upon and applicant was allowed to retire on 30.4.1993. On making a representation to the Lt. Governor, Chairman of Scheduled Caste Commission as well as the Ministry of Welfare Delhi he was granted vide order dated 9.12.94 extension in service up to 31.3.1995 after superseeding the re-employment order dated 28.3.94. The applicant was taken back on the strength of the College w.e.f. 30.3.94. The period from 1.5.93 to 29.3.94 was adjusted as earned leave and half pay leave. The applicant is aggrieved by the order of extension claiming that his extension should have been up to 30.4.1995 as his date of birth is 3.4.1935.

3. On 10.2.95, 18 lecturers were chosen for grant of Selection grade (SG) in the scale of 2200 – 4000/- and 15 teachers including Director of Physical Education for grant of senior scale of Rs.3000-500/-. The University Grant Commission (UGC) as well as the All India Council for Technical Education granted the relaxation to those who had completed 16 years of service and it was specified that those who have completed eight-year service should be given the senior scale and those who have completed 16 years of service should be given Selection Grade. The applicant contention is that he fulfils all the requirements for grant of Selection Grade but the respondents with malafide intention, denied him this grade even though he has more than 27 years continuous service. The applicant made representations to the department on 14.3.95 and 24.3.95 for non-grant of scale of Rs.3700-5700/- w.e.f. 1.1.86 which was not agreed to and he filed the present OA seeking relief for re-fixation of his pension by granting him the benefits of Career Advancement Scheme and/or Merit Promotion Scheme by taking into account the period from 1.4.93 to 27.3.94 as part of his service and benefits accrued to him as per the 4th CPC recommendations by holding that the applicant is entitled to the pay scale of Rs.3700 – 5700/- from 1.1.86, including all consequential benefits and arrears with interest.

4. The respondents have contested the averments of the applicant. They have argued that the applicant is not entitled for grant of the scale of Rs. 3700 - 5700 (w.e.f. 1.1.1986) or salary for the period 1.5.1993 to 29.3.94 and nor for the month of April 1995. The respondents have pleaded that under the Dogra Committee recommendations the applicant would be eligible for grant of the scale of Rs. 3700 - 5700 after completion of 8 years of service in the senior scale of Rs.3000-5000/-. The applicant was granted the Senior Scale on 1.4.1988, after completion of eight years of service in

the pay scale of Rs.700-1600/- (revised Rs.2200-4000) hence he was not eligible for the scale of Rs. 3700 – 5700 before he superannuated. The period of absence from 1.5.1993 to 28.9.1993 was regularized as earned leave and the balance period from 29.9.1993 to 29.3.94 as half pay leave. His leave salary for the aforesaid periods of absence and the terminal benefits due to him after taking into account his placement in the senior scale of pay of Rs.3000-5000/- have already been paid. Hence there is no substance in the contention of the applicant. Moreover, grant of selection grade to a teacher depends upon certain conditions as laid down in the Dogra Committee recommendations and not upon the length of service of an individual. The applicant was placed in the scale of Rs.700-1600/- (at par with lecturer) w.e.f. 1.4.1980 and granted scale of Rs.3000-5000/- on 1.4.1988 after completing eight years of service. As per Dogra Committee recommendations, on completion of eight year's service in the scale of Rs.3000-5000/-, a teacher becomes eligible for placement in selection grade i.e. Rs.3700-5700/-. However, the applicant retired on 31.3.1995 and also did not undergo any refresher course/training programme required for grant of the scale under the Career Advancement Scheme hence the question of grant of selection grade (Rs.3700-5700/-) does not arise.

5. The applicant retired on 30.4.1993 on attaining the superannuating age of 58 years. After retirement employee - employer relationship ended. However, his request for extension in service ^{to} was agreed to and he was allowed to rejoined duty on 30.3.1994 and the period of absence from 1.5.93 to 29.3.94 was regularized as earned leave and half pay leave as due.

6. We have heard the learned counsel for the parties and have gone through the documents placed on record.

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7. The applicant has prayed for re-fixation of his pension by granting him the correct benefit of career advancement/merit promotion scheme by taking into account the period 1.4.93 to 27.3.94 as part of his service and salary for the month of April 1995. Further, applicant prays that by taking into account the benefits as per the recommendations of the 4th Central Pay Commission he should be granted the pay scale of Rs.3700-5700 w.e.f. 1.1.86.

8. We first take up the question of taking into account the period 1.4.93 to 27.3.94 as part of his service and then the question of salary for the month of April 1995. The applicant superannuated on 30.4.93 on attaining the retirement age of 58 years. He requested for two years extension of service on the ground that such extension is granted to lecturers of the Delhi College of Engineering in the normal course. The respondents vide order dated 28.3.1994 first re-employed the applicant on the post of Director Physical Education and latter, vide order dated 09.12.1994 converted the re-employment in super-session of their earlier order, into extension of service up to 31.3.1995. The interregnum period (1.05.93 to 27.3.94) was regularised by granted of leave of the kind due. The grievance of the applicant is that the period from 01.4.1993 to 27.3.1994 should be taken into account as part of his service. As his date of retirement of the applicant is 30.4.93 the period in question would be 1.5.93 to 27.3.94 and not 1.4.93 to 27.3.94. Hence we take the relevant period to be 1.5.93 to 27.3.94.

9. In the case of **State Bank of Bikaner and Jaipur Vs Jagmohan (AIR 1989 SC 75)** it has been held that Employees have no right to remain in service beyond the age of superannuation. Accordingly the applicant cannot claim it as a right to be given an extension beyond the date of superannuation. He made a request and the respondents agreed to this

request by extending his service up to 31.3.1995. The interregnum period was regularised by grant of earned and half pay leave as due. We can see no infirmity in this order for the reason that the applicant has no vested right for extension of service. The question of granting of extension in service is within the purview of the respondents and it is not for the Tribunal to interfere unless it is shown that the order in some way is perverse or malefic. No such case has been made out that would compel us to interfere to set right a wrong. In any case, once the period 1.5.93 to 27.3.94 has been regularised by grant of leave it would form part of the service period thereby making the prayer of the applicant that this period should count for service in fructuous.

10. The applicant has pleaded that he is entitled to the salary for the month of April 1995 on the ground that extension in service should be up to the age of 60 years and as his date of birth is 03.4.1935 he would attain the age of 60 years on 3.4.95 and accordingly the extended period should end on 30.4.95 and not on 31.3.95. In view of **State Bank of Bikaner and Jaipur (supra)** we cannot agree with this argument. Since the applicant has no right to remain in service beyond the period of superannuation it is for the respondents to decide the date up to which extension in service is to be granted.

11. The applicant has prayed that he is entitled to the pay scale of Rs.3700-5700/- w.e.f. 1.1.1986. The grounds of the applicant are that he should have been promoted to Assistant Professor/Reader scale of Rs. 1200-1900/- w.e.f. 1.1.1983 under the Merit Promotion Scheme and the same then should have been converted into the pay scale of Rs.3700-5700/- namely Selection Grade. The applicant had argued that based on the recommendations of Dogra Committee the Government have conceded the

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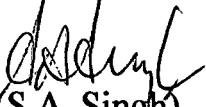
revision of the pay scale of Rs.700-1300 to Rs.700-1600/- w.e.f. 1.4.1980 and then as per the recommendations of the 4th CPC this pay scale was replaced by the corresponding scale of Rs.2200-4000/-. He therefore did not get the benefit of the merit promotion scheme. He should have been placed as per the merit promotion scheme in the scale of Rs.1200-1900/-, which would then have been converted, to Rs.3700-5700/- w.e.f. 1.1.86. The respondents have protested the claim of the applicant stating that as per the recommendations of Dogra Committee senior scale of Rs.3000-5000/- is granted after 8 years of service. As the applicant is shown placed in the scale of Rs. 700-1600/- w.e.f. 1.1.1986 he was granted the senior scale of Rs.3000-5000/- w.e.f. 1.4.1988. For placement in the selection grade of Rs.3700-5700/- he needs to complete eight years service in the senior scale, which he did not complete before his retirement ^{even} after extension in service. Hence he is not eligible for Selection Grade scale. The applicant has argued that delay in grant of senior scale was because he was not promoted under the Merit Promotion Scheme w.e.f. 1.1.84 as granted to the lecturers of the College and to DPEs from 1.1.83 in all other non-government Delhi University colleges. Further, prior to the recommendations of the Dogra Committee senior scale did not exist in the college. Therefore, applicant deserves to be granted this relief.

12. Since, dates when recommendations of a committee are implemented are fortuitous outcomes of the governmental decision making process we cannot agreed with the contention of the applicant that the requirement of eight years of service in senior scale would have been met if the respondents had implemented the recommendations earlier. Clearly the applicant does not have the required eight years service in senior scale for becoming

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eligible for Selection Grade of Rs. 3700-5700/- even after counting the two years extension of service. The prayer is therefore without merit.

13. In view of the foregoing the OA is without merit and is accordingly dismissed. No costs.


(S.A. Singh)

Member(A)



(V S Aggarwal)
Chairman

Patwal/