

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.3150/2003

This the 3rd day of September, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Smt. Sudha Bedi W/O Shri S.K.Bedi,
G-110, Preet Vihar,
Delhi-110092.

... Applicant

(By Shri R. Venkataramani, Senior Advocate with Shri Y.R.Grover,
Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Human
Resources Development,
Shastri Bhawan, New Delhi.

2. Government of N.C.T. of Delhi,
through its Chief Secretary,
Directorate of Technical Education,
'C' Block, Vikas Bhawan,
I.P.Estate, New Delhi.

... Respondents

(By Shri Mohar Singh, Advocate for respondent No.1, and Shri
George Paracken, Advocate for respondent No.2)

ORDER (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :

This application is directed against the respondents' order Annexure A-1 dated 17.11.2003 thereby upgrading the post of applicant from Assistant Librarian to Librarian w.e.f. 17.11.2003 as against her claim for upgradation as Librarian from February, 1979 when she acquired the requisite degree qualification and for consequential benefits thereof.

2. Applicant had earlier on filed OA No.2420/1997 which was dismissed vide order dated 29.11.2000 (Annexure A-4). Applicant had carried the matter before the Hon'ble High Court of Delhi through CWP No.1960/2001. The same was allowed vide order dated 18.5.2002 with the following directions :

"17. The respondents are thereby directed to make the necessary job of evaluation of the 'Assistant Librarian' in College of Arts vis-à-vis 'Assistant Librarian' in the Polytechnic and take an appropriate decision. Such decision must be taken at an early date and not later than three months from the date of the communication of this order.

Keeping in view the fact that the respondent had not produced the relevant records before the Tribunal we are of the opinion that the petitioner herein is also entitled to costs, which is quantified at Rs.5,000/-."

3. Applicant had filed CCP No.454/2003 before the High Court pointing out non-implementation of the aforesaid directions. Thereafter the impugned order dated 17.11.2003 was passed. It was stated before the High Court that applicant had been upgraded and designated as Librarian in pay scale of Rs.5000-8000 from 17.11.2003, which is not a complete compliance with the High Court's order dated 18.5.2002 inasmuch as the petitioner had not been designated as Librarian from the date on which she had obtained the required eligibility, as has been done in case of five other persons mentioned in order dated 14.5.1981 (Annexure A-8). The CCP was disposed of with costs of Rs.5,000/- payable by the respondents to the applicant. However, the question of date from which the upgradation/designation as Librarian would be effective

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was left open for agitation in appropriate proceedings. Hence, the present OA.

4. The learned counsel pointed out that the respondents have not upgraded the applicant to the post of Librarian on the ground that the post of Assistant Librarian did not exist in Polytechnics after 1974 and as such, respondents had not carried out the evaluation of the post of Assistant Librarian in the College of Arts vis-à-vis the post of Assistant Librarian in Polytechnics as directed by the High Court. The learned counsel stated that the post of Assistant Librarian of the Polytechnics was upgraded to the post of Librarian in 1974 and they have continued to perform the same duties and functions as they had been doing as Assistant Librarians before 1974. As such, respondents should have compared the applicant on merit with the Librarians of Polytechnics who were working merely on an upgraded post from the post of Assistant Librarian without any change in their functions, duties and responsibilities.

5. The learned counsel of respondents stated that in the light of order dated 18.5.2002 of the High Court, the department examined the matter in detail and vide memorandum dated 2.12.2002 (Annexure A-10) informed the applicant that they had taken into consideration the directions of the High Court as also the report of the review committee constituted in pursuance of the recommendations of the Fourth Central Pay Commission. The report of the review committee was considered by the Government of India and a suitable staff structure and pay scales were proposed vide OM

dated 24.7.1990. The proposed structure of Library staff comprising posts such as Library Assistant, Assistant Library and Information Officer and Library and Information Officer pertains to departmental libraries of Government of India and various Ministries where the nature of duties of library staff are different from those of library staff in Colleges and Polytechnics. The post equivalent to the post of Librarian in Polytechnics in the above structure is the post of Library Information Assistant in the scale of Rs.1400-2600 (pre-revised). As per the report of the review committee, minimum educational qualifications for post of Library Information Assistant provide for essential qualification of graduate with bachelor's degree in Library Science which the applicant does not possess. Respondents have not been able to carry out the job evaluation of the post of Assistant Librarian with that of Assistant Librarian in Polytechnics. However, the Directorate has taken up the matter for upgradation of the post of Assistant Librarian in College of Arts as Librarian in pay scale of Rs.5000-8000. Ultimately, respondents have upgraded the post of Assistant Librarian of College of Arts at par with the Librarian of Polytechnics as per Annexure A-1 dated 17.11.2003 with immediate effect raising the pay scale from Rs.4000-6000 to Rs.5000-8000.

6. The learned counsel of respondents also stated that nature of duties of the posts in Colleges is different than those of Polytechnics.

7. The High Court had directed the respondents to make necessary job evaluation of the Assistant Librarian in College of

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Arts vis-à-vis Assistant Librarian in the Polytechnics, and take an appropriate decision. According to the respondents, they have not undertaken the job evaluation as directed by the High Court as the post of assistant Librarian in the Polytechnic had been abolished in 1974. The post of Assistant Librarian in the Polytechnics had been upgraded to the post of Librarian. While it has been contended on behalf of the applicant that the post of Assistant Librarian in Polytechnic had been upgraded to the post of Librarian without any change in functions, duties and responsibilities of the incumbents, nothing has been established on behalf of the respondents to contradict the contention. Obviously, the post of Assistant Librarian in Polytechnics had been merely upgraded and provided with a higher scale of pay. The respondents should have done the job evaluation as per directions of the High Court between the post held by the applicant and the upgraded post of Assistant Librarian in Polytechnics, i.e., the post of Librarian. Respondents have not adduced any evidence to establish that the functions, duties and responsibilities of Librarian in the Polytechnics are any different than the post held by the applicant. The respondents had also upgraded the post of Assistant Librarian to the post of Librarian in the Directorate of Technical Education and appointed five Assistant Librarians to the upgraded post of Librarian on 23.1.1976/30.3.1981 as per Annexure A-8 dated 14.5.1981. Ultimately, the post of applicant as Assistant Librarian in the College of Arts has also been

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upgraded and designated as Librarian in scale Rs.5000-8000 w.e.f. 17.11.2003 (Annexure A-1).

8. When the respondents have not made any job evaluation of the post of Assistant Librarian in College of Arts as directed by the High Court on the ground that the post of Assistant Librarian in Polytechnics had been abolished in 1974 and have upgraded the post in Polytechnics to the post of Librarian, they ought to have carried out job evaluation of the post of applicant with the post of Librarian in Polytechnics. The post of Librarian in Polytechnics had merely been upgraded. Respondents have not established that there is any difference in the functions, duties and responsibilities of Assistant Librarians in College of Arts and the Librarian in Polytechnics. Ultimately, the applicant's post has also been upgraded but prospectively.


9. In view of the reasons stated above, we hold that the duties and responsibilities of the post held by the applicant and the post of Librarian in Polytechnics are identical and the applicant is entitled to the benefits as available to the Librarians in the Polytechnics from the date she acquired the requisite qualification. The respondents have accorded retrospective benefits of the post of Librarian to Assistant Librarians of the directorate of Technical Education who have the same degree qualification as the applicant. Thus, the applicant cannot be denied the retrospective effect to upgradation to the higher post as well. No useful purpose would be served by sending back the case to the respondents for job evaluation at this

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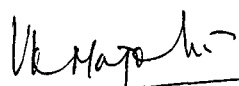
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stage when no material has been placed before us for distinguishing the post held by the applicant and the post of Librarian in Polytechnics. In order to do complete justice, in (1986) 2 SCC 679 : **Comptroller and Auditor General of India, Gian Prakash, & Anr. v. K.S.Jagannathan & Anr.**, the Hon'ble Supreme Court made the requisite directions at their level itself.

10. In result, OA is partly allowed directing respondent No.2 to give effect to Annexure A-1 dated 17.11.2003 qua the applicant w.e.f. February, 1979 when she acquired the degree qualification as had been done in the case of five other persons mentioned in Order dated 14.5.1981 (Annexure A-8).


(Shanker Raju)
Member (J)

/as/


(V. K. Majotra) 3.9.04
Vice-Chairman (A)