
(2008) 08 DEL CK 0157

In the Delhi High Court

Case No : Writ Petition (Civil) No. 13156 of 2005

V.K. Mangla Assistant Library and Information Officer

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 21-08-2008

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2008) 08 DEL CK 0157

Hon'ble Judges : Madan B. Lokur, J;J.R. Midha, J

Bench : Division Bench

Advocate : Madhu Tewatia and Sidhi Arora, for the Appellant; Ashwani Bhardwaj, for the Respondent

Final Decision : Dismissed

Judgement

Madan B. Lokur, J.—The sole issue before us is whether the Petitioner, Mr. Mangla, was entitled to a second financial up gradation under the Assured Career Progression Scheme (the ACP Scheme) in the pay scale of Rs. 10000-15200 with effect from 9th August, 1999? We are in agreement with the view of the Central Administrative Tribunal that the answer to this must be in the negative.

2. At the relevant time, Mr. Mangla was working with the Respondents as Librarian Grade-II and was in the pay scale of Rs. 5000-8000 as per the recommendations of the Fifth Central Pay Commission.

3. On 9th August, 1999 the Respondents floated the ACP Scheme, on the basis of which Mr. Mangla was (erroneously) given his first financial up gradation in the pay scale of Rs. 6500-10500. This was by an order dated 2nd May, 2001. However, that order was subsequently replaced by another order dated 25th February, 2002 whereby Mr. Mangla was granted his first financial upgradation in the pay scale of Rs. 5500-9000 and a second financial upgradation in the pay scale of Rs. 6500-10500. Both the financial upgradations were with effect from 9th August, 1999. It appears that the order dated 25th February, 2002 was

occasioned by a clarification issued by the Department of Personnel & Training.

4. On 3rd January, 2003 the pay scale of Mr. Mangla was revised from Rs. 5000-8000 to Rs. 5500-9000. Consequently, the first financial upgradation granted to Mr. Mangla was revised (from Rs. 5500-8000) and he was placed in the pay scale of Rs. 6500-10500 with effect from 9th August, 1999. According to Mr. Mangla, the further consequence of this was that he should have automatically been granted his second financial upgradation in the pay scale Rs. 10000-15200 with effect from 9th August, 1999 but this was not done by the Respondents. Feeling aggrieved by this, Mr. Mangla made a representation to the Respondents, but the representation was rejected. According to Mr. Mangla, matters were made worse by the Respondents, who later granted him a second financial upgradation in the pay scale of Rs. 10000-15200 but with effect from 5th March, 2004.

5. At this stage, it may be noted that Mr. Mangla was promoted to the post of Assistant Library and Information Officer with effect from 6th May, 2003 in the pay scale of Rs. 6500-10500. The promotion post is a Group 'B' post and the next higher pay scale is Rs. 10000-15200 which is applicable to a Group 'A' post.

6. According to the Respondents, if Mr. Mangla were to be automatically granted the second financial upgradation in the pay scale of Rs. 10000-15200 as claimed, he would have been entitled to a pay scale applicable to a Group 'A' post and that was not permissible without a recommendation from the Screening Committee. The recommendation of the earlier Screening Committee which approved the second financial upgradation in the pay scale of Rs. 6500-10500 in 2001 was no longer valid since that recommendation pertained to a financial upgradation in a Group 'B' post whereas now the second financial upgradation in the pay scale of Rs. 10000-15200 would be with reference to a Group 'A' post. Moreover, the composition of the two screening committees is different in as much as in respect of a Group 'B' post the Screening Committee is chaired by an Additional Secretary to the Government of India while in the case of a Group 'A' post, the Screening Committee is chaired by a Secretary to the Government of India.

7. The Respondents say that under these circumstances, the case of Mr. Mangla was considered by a Screening Committee chaired by the Defence Secretary on 29th September, 2003 but it did not find him fit for the grant of a second financial upgradation. His case was again considered by the Screening Committee on 11th March, 2004 and this time he was found fit for the grant of a second financial upgradation in the pay scale of Rs. 10000-15200 and that was, therefore, given to him with effect from 5th March, 2004.

8. As mentioned above, the grievance of Mr. Mangla is rather limited and it is that the second financial upgradation in the pay scale of Rs. 10000-15200 should also be with effect from 9th August, 1999 and not with effect from 5th March, 2004. It is with this grievance that Mr. Mangla filed an Original Application before

the Central Administrative Tribunal u/s 19 of the Administrative Tribunals Act, 1985 being OA No. 1763 of 2004. However, the Tribunal did not agree with Mr. Mangla and rejected his Original Application by its order dated 9th February, 2005 which is impugned in this writ petition.

9. It must be appreciated that when the second financial upgradation was originally granted to Mr. Mangla on 25th February, 2002 he was in the pay scale of Rs. 5000-8000. It was with reference to this pay scale that he was given a first financial upgradation in the pay scale of Rs. 5500-9000 and a second financial upgradation in the pay scale of Rs. 6500-10500. Thereafter, there was an upward revision in his pay scale from Rs. 5000-8000 to Rs. 5500-9000. Therefore, his first financial upgradation was modified to the pay scale of Rs. 6500-10500 with effect from 9th August, 1999. Mr. Mangla has no grievance in this regard and upto this point.

10. The rub lies in the second financial upgradation due to Mr. Mangla in the pay scale of Rs. 10000-15200 which, as already stated above, pertains to a Group 'A' post.

11. The Screening Committee for a Group 'A' pay scale is required to be headed by a Secretary to the Government of India. Consequently, for the grant of a second financial upgradation the recommendation earlier made by the Screening Committee (for a Group 'B' post) headed by the Additional Secretary to the Government of India became redundant or irrelevant.

12. Due to the change in circumstances, the case of Mr. Mangla was now required to be considered by a Screening Committee headed by the Secretary to the Government of India. This Screening Committee considered his case (on 29th September, 2003) for the grant of a second financial upgradation in the pay scale of Rs. 10000-15200 but found him not yet fit. His case was again considered by the Screening Committee on 11th March, 2004 when it found him fit for the grant of a second financial upgradation and recommended accordingly.

13. The Tribunal has considered all these facts and has come to the conclusion that, in the changed circumstances, there is no error committed by the Respondents in referring Mr. Mangla's case to the Screening Committee headed by a Secretary to the Government of India. We also do not find any error in this regard. The initial decision taken by the Respondents to grant a second financial upgradation to Mr. Mangla pertained to a Group 'B' post in the pay scale of Rs. 6500-10500 and the Screening Committee was then chaired by an Additional Secretary to the Government of India. However, in the changed circumstances, the second financial upgradation due to Mr. Mangla fell in the pay scale of Rs. 10000-15200 which is a Group 'A' post and which required the Screening Committee to be headed by a Secretary to the Government of India. The case of Mr. Mangla was overtaken by subsequent events and the quantitative change brought about required a qualitative change as well. In our opinion, no fault can be found in the decision taken by the Respondents.

14. Learned Counsel for Mr. Mangla contended that the denial of a second financial upgradation by the Screening Committee which met on 29th September, 2003 was incorrect. We cannot accept this submission. First of all, his case was considered by a duly constituted Screening Committee and it is not possible for us to substitute our view for that of the Committee. Secondly, we find that the Tribunal had looked into the records and found that there was no error in the decision taken by the Screening Committee. To allay any doubts that Mr. Mangla may have, we too called for the records and after perusing them we find that in the consideration that took place on 29th September, 2003 the Annual Confidential Reports of Mr. Mangla for the years 1996-97 to 2000-2001 were taken into consideration and he was found not yet fit for the grant of a second financial upgradation. When the Screening Committee again met on 11th March, 2004 it considered the Annual Confidential Reports of Mr. Mangla for the years 1998-99 to 2002-2003 and found him fit for the grant of a second financial upgradation. It is settled law that we cannot sit in appeal over the view taken by the Screening Committee and in any case we do not find any error in the view taken by that Committee.

15. In our opinion, there is no merit in the writ petition. It is dismissed. No costs.