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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.287/2002

This the 22nd day of July, 2003

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Smt. Jaiwanti Kelkar.
R/O B-4/208-B, Keshav Puram, la.
Delhi-110035.

... Applicant

(By Shri M.A.Krishnamurthy, Advocate)

-versus-

1. The Government of NCT of Delhi
through its Secretary.
Ministry of Education.
Delhi Secretariat.
Raj Niwas Marg, Delhi.
2. Director (Education).
Govt. of NCT of Delhi.
Old Secretariat, Delhi.
3. Joint Director of Education (Admn.).
Establishment-III Branch (Special Cell).
Govt. of NCT of Delhi.
Old Secretariat, Delhi.
4. Deputy Director of Education (Admn.).
Establishment-II Branch.
Govt. of NCT of Delhi.
Old Secretariat, Delhi.
5. Director of Education (Admn. Branch).
Distt. North West (S).
FU Block, Pitampura.
Delhi-110036.
6. Suman Lata
through Deputy Director of Education (Admn.).
Establishment-II Branch.
Govt. of NCT of Delhi.
Old Secretariat, Delhi.
7. Smt. Shakum
through Deputy Director of Education (Admn.).
Establishment-II Branch.
Govt. of NCT of Delhi.
Old Secretariat, Delhi.
8. Smt. Sushma Soni
R.S.K.V.
Block No.27 Trilok Puri.
New Delhi.

9. Smt. Kamla Bharti.
through Deputy Director of Education (Admn.),
Establishment-II Branch,
Govt. of NCT of Delhi.
Old Secretariat, Delhi. Respondents

(By Shri George Paracken, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has challenged Annexure P-12 (collv.) dated 28.7.2000 issued by respondent No.4, and order No.341 dated 1.8.2000 issued by respondent No.5 whereby promotion/posting order of applicant as PGT (Hindi) bearing No.13 dated 24.7.2000 had been kept in abeyance and she has been reverted to the post of TGT. Her representations dated 4.9.2000, 19.12.2000 and 29.3.2001 have been rejected by respondents. Applicant has also assailed respondents' order No.88 dated 17.7.2001 whereby respondents 8 and 9, Smt. Sushma Soni and Smt. Kamla Bharti who are stated to be juniors ^b to applicant, have been promoted as PGTs. Applicant has stated that action of respondents in setting aside her promotion and in promoting her juniors has adversely affected her seniority and promotional avenues to the post of PGT and Vice Principal.

2. The learned counsel of applicant contended that applicant had been promoted as PGT vide Annexure P-5 collv. dated 14.7.2000 on the recommendations of the DPC meeting held on 30.6.2000. It was stated in the orders that the promotions were also subject to final seniority in the feeder cadre. However, vide impugned Annexure P-12 dated 28.7.2000 her promotion was kept in abeyance and she was reverted. Her representation against Annexure P-12 was rejected.

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3. The learned counsel stated that while applicant was appointed in 1983 as TGT, respondents 6 to 9 were appointed as such in 1989. As such, respondents 6 to 9 were junior than applicant in the grade of TGT. It was also stated that applicant was confirmed as TGT much prior to the confirmation of respondents 6 to 9. He further stated that in terms of rule 5 of Delhi Administration (Seniority) Rules, 1965 (the 1965 Rules), the relevant seniority of direct recruits has to be determined by the order of merit in which candidates are selected. The learned counsel stated that applicant had obtained 52 marks in the interview at the time of selection. As such, while she was junior to respondent No.6 taking into account merit in selection, she was senior to respondents 7 to 9. However, official respondents had shown respondents 7 to 9 as senior to applicant in the seniority list issued in 1997 as well as the position indicated in order No.35 dated 15.9.2000. The learned counsel stated that seniority list dated 26.3.1997 was not made available to her and her seniority was depressed vis-a-vis respondents 7 to 9 despite they were appointed and confirmed much later than applicant. This has also resulted in promotion of these respondents prior to applicant. Applicant was ultimately promoted in December, 2000 and as such his relief relates to fixation of higher seniority than respondents 7 to 9 as also consequential arrears on promotion.

4. The learned counsel of respondents stated that while respondents 6, 7, 8 and 9 were selected as Language

Teachers vide panel dated 12.8.1983. applicant was selected on the basis of panel dated 22.8.1983. Respondents 6 to 9 were placed senior to applicant in view of the fact that they belonged to the earlier panel of 12.8.1983. According to respondents, the panel dated 12.8.1983 was scrapped against which the affected candidates approached the Hon'ble Supreme Court, which granted them seniority from the date of the panel though they joined later in 1989. Applicant belongs to the later panel of 22.8.1983 and had to be placed in seniority lower than the panelists of 12.8.1983 whose position had been restored by the Hon'ble Supreme Court. The learned counsel further stated that applicant had been promoted inadvertently on 14.7.2000 on the basis of her date of joining but on receipt of representations against her promoted on the ground of non-consideration of her seniors, her promotion was kept in abeyance by order dated 28.7.2000 which was later on cancelled on recommendations of the DPC meeting held on 9.8.2000. The learned counsel pointed out that applicant has not challenged the order dated 15.9.2000 where again she has been shown junior. The learned counsel relied on **Union of India & Ors. v. Ishwar Singh Khatri & Ors.**, 1993 (2) SCALE 730. These orders were passed on 4.8.1989 in C.A. No.1900 of 1987 which related to the panels in question. It was held therein that candidates in the panel when appointed must get their seniority as per their ranking in the select panels over the persons appointed in the interregnum. Respondents 6 to 9 having been empanelled on 12.8.1983, i.e., prior to the empanelment of applicant on 22.8.1983, were accorded seniority over applicant although these respondents joined in 1989.

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5. Rule 5 of the 1965 Rules ibid reads as follows:

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"Notwithstanding the provisions of rule 4, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment on the recommendations of U.P.S.C. or other selecting authority, persons appointed as a result of earlier selection being senior to those appointed as a result of subsequent selection."

6. It is not disputed that while respondents 6 to 9 belong to panel dated 12.8.1983 applicant belongs to panel dated 22.8.1983. Seniority list dated 26.3.1997 (Annexure P-2) was circulated to all the Deputy Directors of Education, all the Education Officers, Assistant Director of Education (Personnel), President/Secretary GSTA (General/SC-ST)/ Delhi Adhyapak Parishad and Office Superintendents. The contention of applicant that this seniority list was not supplied to her does not carry any weight as this seniority list had been given wide publicity including to the association/Parishad. If applicant did not challenge this seniority list at the appropriate time she has to bear the consequences of not challenging the same. Applicant has also not challenged Annexure R-I order No.35 dated 15.9.2000 which was issued in partial modification of order dated 14.7.2000 regarding promotion from the post of TGS/LTs to the post of PGT/Lecturer and in continuation of order dated 28.7.2000 whereby promotions made vide order dated 14.7.2000 were cancelled as the concerned persons were not found eligible for promotion as per their seniority in the respective category. Furthermore, in the matter

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of Ishwar Singh Khatri (supra) the 1983 panels containing 1492 names of selected candidates were challenged. The Delhi Administration was directed to fill up all existing vacancies of TGTs within one month till the panel is exhausted. It was clarified, "Candidates in the panel when appointed must get their seniority as per their ranking in the select panels". It is not denied that respondents 6 to 9 belong to panel dated 12.8.1983 and applicant belongs to panel dated 22.8.1983. Even though these persons were appointed in 1989 subsequent to the Supreme Court's order dated 4.8.1989 in the case of Ishwar Singh Khatri, they have been granted seniority in terms of the Supreme Court's directions. If applicant felt aggrieved by the Supreme Court's orders or allocation of higher seniority to respondents 6 to 9 in pursuance of the Apex Court's verdict, she could have sought review of the directions of the Supreme Court, which she did not. applicant did not challenge the panels and she neither challenged the 1997 seniority list nor did she challenge h order No. 35 dated 15.9.2000.

7. Having regard to the reasons stated above, this OA must fail. It is accordingly dismissed. No costs.

V. K. Majotra

(V. K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/as/