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Central Administrative Tribunal, Principal Bench

Original Application No.1692 of 2002

New Delhi, this the 3rd day of July, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member(A)

Dr. Sunita V. Auluck
W/o Shri Vinay Auluck
Addl. Director/Scientist 'SF'
Ministry of Environment & Forests
Govt. of India
Paryavaran Bhawan, Lodhi Road,
New Delhi-3

.... Applicant

(By Advocate: Shri A.D.N. Rao)

Versus

1. Union of India
Through the Secretary
Ministry of Environment & Forests
Govt. of India
Paryavaran Bhawan, Lodhi Road,
New Delhi-3

2. The Secretary
Ministry of Personnel, Public Grievances & Pensions
North Block, Central Secretariat
New Delhi-1

.... Respondents

O R D E R (ORAL)

By Hon'ble Mr. S.A.T. Rizvi, Member(A)

The applicant was promoted as Scientist 'SF' under the Flexible Complimenting Scheme (FCS) in the pay scale of Rs.4500-5700 in the Ministry of Environment & Forests (MOEF) w.e.f. 11.8.95. According to the Department of Environment, Forests and Wildlife Group 'A' Posts Recruitment Rules, 1987 (hereinafter called rules of 1987), the applicant was entitled for further promotion under the FCS after completion of five years satisfactory service. The learned counsel appearing on behalf of the applicant submits that the aforesaid period of five years laid down in Rule 7.1 of the rules of 1987 was subsequently reduced to three years by proper amendment of the rules of 1987. The applicant accordingly became eligible for

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further promotion under the FCS on completion of three years from 11.8.95. She should, therefore, have been considered for further promotion immediately after 1.1.8.98. The respondents did not take up her case for further promotion as above, even though a letter was issued on 10.8.98 (Annexure 17) in which it was disclosed that review/promotion under the FCS was to be ^{made} ~~made~~ on 1.1.99 and for this purpose, certain information was sought from the applicant as well. The above mentioned exercise slated for 1.1.99 was not taken up and soon thereafter, the respondents issued a letter dated 8.2.99 (Annexure 20) which made a provision having the effect of excluding the applicant who was a Ph.D in Sociology from the field of consideration for the purpose of further promotion under the FCS. On this basis, the applicant's claim was not considered on 4.2.2000. The representations made by her in December, 2000 and January, 2001 were considered by the respondents but her claim was ^{not accepted as} ~~rejected~~ on 19.2.2001 (Annexure 22). In accordance with the contents of the aforesaid letter, the applicant was informed that if a person became ineligible for promotion in terms of the provisions of modified FCS, he shall have to seek further promotion under the Dynamic ACP applicable to holders of isolated posts. The letter provided that her case was to be regulated accordingly. By the same letter, the respondents further informed the applicant that since no exhaustive list of disciplines covered under 'Natural Sciences' had been drawn up, each case of doubt was required to be referred to the Department of Science & Technology (DST) for advice implying thereby that the advice of DST

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was being sought in-so-far as the subject of Sociology was concerned. At that point of time, the advice of DST was still awaited.

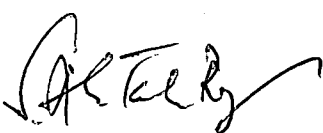
2. By a subsequent letter issued by the respondents on 7.8.2001 (copy produced in the court), the applicant's claim has been formally rejected in consultation with the DST and the DOP&T. No specific reason has been assigned for rejecting the applicant's claim. It has merely been stated that the respondents have not found it possible to agree to the applicant's request. The applicant had way back on 25.2.99 filed a detailed representation (Annexure 16). The various issues raised by her in the aforesaid representation do not appear to have been examined adequately by the respondents before rejecting her claim vide their letter of 7.8.2001.

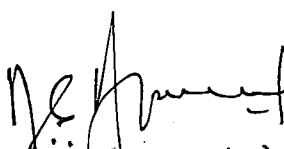
3. In the circumstances, we find^{it} in order to direct the respondents to pass a supplementary order in continuation of the aforesaid order of 7.8.2001 giving reasons for rejecting the applicant's claim in the light of the issues raised by her in the aforesaid representation. Accordingly we find that the interests of justice will be duly met by disposing of the present OA at this very stage even without issuing notices with a direction to the respondents to pass orders as above expeditiously and in any event within a period of three months from the date of receipt of a copy of this order. We direct accordingly.

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The OA is disposed of in the aforestated terms.

4. It is made clear that if the order to be passed by the respondents as above is found by the applicant to be adverse to her, she will have the liberty to file a fresh OA or seek revival of the present OA in accordance with law.


(S.A.T. Rizvi)
Member(A)


(Ashok Agarwal)
Chairman

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