

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2664/2002

6

New Delhi this the 24th day of April, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

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

Smt. Prem Vaid
W/o Sh. R.C. Vaid
R/o B-17, Brij Vihar,
Pitampura
New Delhi-34.

...Applicant.

(By Advocate Shri Yogesh Sharma)

vs.

1. Union of India
Through the Secretary
Ministry of Home Affairs
Department of Official Language
Lok Nayak Bhawan
Khan Market
New Delhi-16.
 2. The Under Secretary
Ministry of Home Affairs
Department of Official Language
Lok Bhawan, Khan Market
New Delhi-16.
- Respondents.

(By Advocate Shri M.M. Sudan)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

By virtue of the present application, the applicant (Smt. Prem Vaid) seeks quashing of the order dated 6.11.2001. By virtue of the said order, it was declared that the applicant was not entitled to count the probation period for the purpose of grant of the Assured Career Progression Scheme (for short, the ACP Scheme).

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2. The relevant facts in this regard are that the applicant joined as Junior Hindi Translator on 27.2.1975. While she was working in the Ministry of External Affairs, the said Ministry invited applications for the post of Senior Hindi Translator to be filled through direct recruitment for which the applicant also applied. The applicant was appointed as Senior Hindi Translator as a direct recruit on 4.3.1977. On 3.3.1979 she completed the period of her probation and was so confirmed. Thereafter, she was promoted to the post of Assistant Director on 2.7.1993.

3. On 9.8.1999, the Government of India prepared the ACP Scheme for Central Government civilian employees and according to that Scheme, two financial upgradations were to be given on completion of 12 years and 24 years of service subject to certain other conditions. The applicant contends that she completed 24 years of service as on 4.3.2001 and, therefore, she is entitled to one financial upgradation because during that period she had been granted only one promotion. Her representation in this regard has since been rejected. Hence the present application.

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4. The application has been contested. It has been pointed that the applicant had been appointed as Senior Hindi Translator in the Ministry of External Affairs with effect from 4.3.1977 on temporary and ad hoc basis. The ad hoc employees are not eligible for the benefit of the ACP Scheme. Furthermore, it has been asserted that this Tribunal in OA No.768/1987 filed by the applicant which was decided on 8.8.1990 had directed to treat the appointment of the applicant as regular from the date she had completed the probation period and to give her consequential benefits. Keeping in view the said decision of this Tribunal, the claim of the applicant had been rejected.

5. During the course of submissions, the learned counsel for the applicant contended that the period of probation has also to be counted for regular appointment and, therefore, the respondents are in error in not giving the benefit of the same to the applicant.

6. We need not go into the said controversy. This is for the reason that when there is a decision inter-parties, necessarily the same has to prevail and is binding on the parties to that litigation.

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9

7. Earlier the applicant preferred OA No.768/1987 which was decided by this Tribunal on 8.8.1990. While deciding the same, it was held:-

"We do not know the exact date when the post was made permanent. But the very fact that the post is encadred in the Central Secretariat Official Language Service and has been transferred to the Official Language Department shows that it is a permanent post. The applicant has been holding it all these years continuously with all the trappings of regular appointment. In view of this, we direct the respondents to treat the appointment of the applicant as regular from the date she completed probation i.e.3.3.1979 and give her all consequential benefits."

In other words, it has already been ~~agitated~~ ^{decided} between the parties that the respondents were to treat the appointment of the applicant only from 3.3.1979 and give her consequential benefits. The earlier period claimed by the applicant seemingly has not been gone into by this Tribunal. The said decision of this Tribunal has become final. Necessarily, therefore, the applicant cannot claim the benefit of the period of probation because this question which could have been raised has been adjudicated otherwise.

8. For these reasons, the present application being without merit must fail and is accordingly dismissed. No costs.

Announced.

V.K. Majotra

(V.K. Majotra)
Member (A)

/sns/

V.S. Aggarwal

(V.S. Aggarwal)
Chairman