

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1799/2001

(3)

New Delhi, this 7th day of June, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Shri M.P. Singh, Member(A)

Smt. Sushila Kaul
2469, sector C/2, Vasant Kunj
New Delhi-110070 .. Applicant

(Shri S.K. Anand with Shri K.P.Dohare, Advocates)

versus

Govt. of NCT of Delhi, through

1. Chief Secretary
5, Shamnath Marg, Delhi-54
2. Secretary
Department of Education
4, Shamnath Marg, Delhi-54
3. Director of Education
Old Secretariat, Delhi-54 .. Respondents

(Shri George Paracken, Advocate)

ORDER

Shri M.P. Singh, Member(A)

By filing this OA, the applicant has sought the following reliefs:

- (i) To declare the action of the respondents as illegal for lowering the final seniority assigned to the applicant in the post of Lecturer/PGT dated 10.2.1999 at Sl.No.61 to 632A without any valid reason;
- (ii) To quash and set aside the order No.DE-2(2)(5)/E-II/97-98-204-214, dated 25.7.2000 and set aside the same on the ground of illegal, arbitrary and malafide.
- (iii) To direct the respondents to consider her future promotion for higher post of Principal, Education Officer

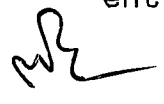
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etc. based on her final seniority of PGT/Lecturers dated 10.2.1999 as well as the date of regularisation of Vice Principal on 19.3.1999."

2. Briefly stated, the case of the applicant is that she was promoted as PGT/Lecturer w.e.f. 30.9.83 but her seniority was not finalised in 1983. On applicant's making several representation, she was allowed notional seniority w.e.f. 21.11.79 when her immediate junior was so promoted and she was assigned Sl.No.61 in the final seniority list of PGT/Lecturer dated 10.2.99. Thereafter she was regularised as PGT from 21.11.79. However, aggrieved by the final seniority list of PGT, one Smt. Vidya Wati, Vice Principal and colleague of the applicant filed OA No.1930/1999 praying that she should be given seniority of PGT w.e.f. 1975 or atleast before 21.11.79 from the date the applicant herein has been given seniority. The said OA, in which the present applicant was impleaded as Respondent No.3, was disposed by the coordinate Bench of this Tribunal on 11.9.2001 with the following directions:

"(1) The respondents shall consider the applicant for promotion to the post of PGT subject to her fulfilment of the eligibility and other conditions as per the relevant rules relevant rules and instructions. In the circumstances, they shall not insist on the fact that she had not made any separate application in the proforma, as per the executive instructions/circulars issued from time to time as her particulars were available with the respondents in her Service Book from 1975.

(2) If she is so found fit for promotion to the post of PGT from an earlier date to 25.1.1983, taking into account the facts and circumstances of the case, she will be entitled to only notional benefits of



promotion like seniority from the date any of her junior was promoted, without any monetary benefits."

3. Applicant has further contended that the respondents issued a show cause notice to her on 23.3.2000 before cancelling notional promotion, alleged to have been given wrongly from 21.11.79 and to restore the order dated 9.3.93. Applicant made several representations in this regard which ultimately resulted in the issuance of impugned order dated 25.7.2000. That is how the applicant is before us seeking the aforeosaid reliefs.

4. It is the case of the respondents that the applicant was allowed notional seniority w.e.f. 21.11.79 wrongly and the same has now been rectified by the impugned order dated 25.7.2000 by which she has been re-assigned the correct seniority w.e.f. 18.1.83 when she applied for inclusion of her name in eligibility list for promotion to the post of Lecturer. Her name had earlier appeared at Sl. No.61 in the seniority list. The same has been withdrawn and placed at Sl.No.632-A of the seniority list which is in accordance with the rules. The stand taken by the respondents is that if a junior teacher of feeder category applies in prescribed proforma for inclusion of her name in eligibility list and a senior does not apply or prefers not to apply for such promotion, obviously the junior who has applied in prescribed proforma before stipulated date is to be considered for promotion. The senior on this count cannot have any grievance. The Department is at liberty to rectify any error noticed at any stage and there is no bar to undo any wrong. In view of this position, the OA be dismissed.



5. Heard the learned counsel for the rival contesting parties and perused the records.

6. During the course of the arguments, the learned counsel for the applicant, drawing support from some of the judgements of the apex court, has contended that the seniority finalised after inviting objections cannot be altered later on. He also submitted that both Smt. Vidya Wati (OA 1930/99) and the applicant joined as TGT in Delhi Administration on 10.2.70 but applicant is senior to Smt. Vidya Wati by virtue of her date of birth and in accordance with settled legal position. In this view of the matter, similar directions as have been given in Smt. Vidya Wati's case (supra) may be given in the present OA.

7. On the other hand, the learned counsel for the respondents argued that the case of Smt. Vidya Wati is distinguishable in the sense that she sought promotion and seniority to the grade of PGT w.e.f. 1975 whereas the applicant in the present OA is not seeking her promotion w.e.f. 21.11.79 but only the assignment of seniority from that date. We are unable to agree with this contention as the promotion and seniority are interlinked and the promotion is always linked with seniority. All the points raised in the present OA have been discussed in detail in OA 1930/99 before the aforementioned directions were given by the Tribunal vide their order dated 11.9.2001. Since we are of the

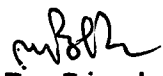



considered view that the present OA is covered in all fours by the order dated 11.9.2001, the same is disposed of with the following directions:

(i) Order dated 25.7.2000 is quashed and set aside;

(ii) Applicant shall retain her original seniority position at Sl.No.61 as reflected in the final seniority list of Lecturers/PGT dated 10.2.99 and on that basis she shall be entitled to be considered for higher promotions in accordance with law, rules and instructions.

No costs.


(M.P. Singh)
Member(A)


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

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