

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2750/2001

New Delhi, this 8th day of ~~October~~ ^{November}, 2002

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

Smt. Jessie Jayachandran
Personal Assistant, Ministry of Parliamentary
Affairs, 90, Parliament House
New Delhi

.. Applicant

(Shri B.S. Mainee, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Parliamentary Affairs
8, Parliament House, New Delhi
2. Secretary
Department of Personnel & Training
North Block, New Delhi

.. Respondents

(Shri Rajeev Bansal, Advocate)

ORDER

Shri M.P. Singh, Member(A)

We have heard the learned counsel for the parties and perused the records. Applicant's challenge in the present OA is to the order dated 23.2.2001 by which her request for promotion to the post of Private Secretary has been rejected.

2. It is the case of the applicant that she was appointed as Stenographer Grade D in the year 1982 and she was promoted as Personal Assistant (PA, for short) in the pay scale of Rs.5500-9000 w.e.f. 26.10.87 on ad hoc basis against a temporarily upgraded post. According to the applicant, Rule 4(5)(1)(vii) of the Department of Parliamentary Affairs (Recruitment & Conditions of Service) Rules, 1963, provides as under:



(18)

"If and for so long as one or more posts of Second Personal Assistant to the Minister or Deputy Minister are filled by appointment of persons other than stenographers of the Ministry or by persons in the grade of stenographers of the Ministry who are not approved for promotion to the grade of Personal Assistant, or, if approved for promotion to the grade, are not due for such promotion, a corresponding number of posts in the grade of stenographers in the Ministry shall be temporarily upgraded to the grade of Personal Assistant".

3. In view of the aforesaid rule, the applicant was promoted against an upgraded post on temporary basis but this could not be levelled as ad hoc as mentioned in the promotion order dated 29.10.87. In similar circumstances other officials of the Ministry namely V.Kumar, K.S.Mowel and V.K.Kaushal were promoted on temporary basis against upgraded posts. Thereafter, R-1 after obtaining approval from DoPT regularised the services of the aforesaid three officials w.e.f. the date they had been promoted temporarily against upgraded posts. However, the applicant was ignored and she was not regularised because the order promoting her as PA was said to be ad hoc and temporary against upgraded post. Applicant made a representation on 18.6.90 to regularise her service but the same was rejected by the respondents.

4. Applicant made another request to the respondents to promote her as Private Secretary (PS, for short) under Rule 4(5)(1)(v) of the aforesaid Rules, which provides as under:

"If and for so long as one or more posts of First Personal Assistant to the Minister or Deputy Minister or of Assistant Private Secretary to the Minister are filled by appointment of persons other than stenographers of the Ministry or by officers in the grade of



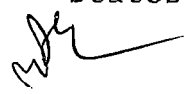
Personal Assistant or in the grade stenographers of the Ministry who are not approved for promotion to the grade of Private Secretary or if approved for promotion to the grade, are not due for such promotion, a corresponding number of posts in the grade of Personal Assistants shall be temporarily upgraded to the grade of Private Secretary".

5. The representation of the applicant was turned down by the respondents vide their letter dated 22.5.2000. In the said letter respondents clarified that applicant had not put in the requisite qualifying service for promotion which is 8 years in accordance with Rule 4(5)(3)(b). The contention of the applicant is that this rule is not applicable in her case but applicable only in the case of regular/ad hoc promotion against a regular post which is filled up by holding DPC on the basis of merit-cum-seniority. Applicant's case was for upgradation of the post on temporary basis as per rule 4(5)(1)(v) of the aforesaid rules. The rejection of her representation is discriminatory because earlier Smt. Suganti and V.K.Kaushal who had not completed 8 years service as PA were promoted as PS. Aggrieved by this, she has filed the present OA seeking directions to respondents to promote her in a temporarily upgraded post of PS as per Rule 4(5)(1)(v) without insisting on the requisite service of 8 years as required under Rule 4(5)(3)(b) from the date the said post became available and has also sought directions to regularise her service as PA from 26.10.87 on which date she was given temporary promotion, with all consequential benefits.

6. Respondents have contested the case and have stated in their reply that there are four grades of



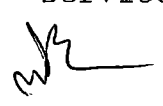
Stenographers viz. Principal Private Secretary, Private Secretary(Steno Gr.B), Personal Assistant (Steno Gr.C) and Stenographer Gr.D in the office of answering respondents. Sub-rule 4(5)(3)(b) provides that "Appointment to the grade of PS shall be made on the basis of merit, with due regard to seniority from amongst persons in the grade of PA and who have rendered not less than eight years' approved service in that grade". Applicant was appointed as Steno Gr.D in 1982. She was promoted as PA on regular basis w.e.f. 7.4.1994. As per R/Rules, she will become eligible for promotion as PS in the year 2002 after rendering 8 years regular service in the grade of PA. The claim of the applicant is that she should be promoted as PS under Rule 4(5)(1)(v) even though she does not have 8 years service in the grade of PA and that her promotion as PA be ante-dated. Respondents have consulted DoPT which had opined that even for operation of Rule 4(5)(1)(v), 8 years service in the grade of PA is a must. This fact was duly communicated to the applicant. It is stated by them that for making promotion to any post irrespective of the fact that whether the same is on ad hoc basis or regular basis, the incumbent must fulfil the eligibility conditions laid down in the R/Rules, as provided in DoPT OM dated 30.3.1998. The applicant is not eligible to be promoted as PS as she has not put in 8 years regular service in the feeder cadre of PA as provided in Rule 4(5)(3)(b). As regards her second claim no regular vacancy was available in 1987 and she could not be appointed on regular basis. Order dated 29.10.87 clearly states that the said promotion was in an officiating



capacity and on ad hoc basis against a temporarily upgraded post for so long as the post of 2nd PA to the Minister of State for Parliamentary Affairs is held by an outsider. Applicant has concealed the fact that in 1990 she was reverted from the post of PA to Steno Grade 'D' on two occasions. In view of this position, the OA has no merit and be dismissed.

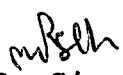
7. We find from the material placed before us that the applicant has mainly raised two issues, i.e. (i) promoting her as PS under Rule 4(5)(1)(v) without insisting on 8 years regular service in the grade of PA and that (ii) ante-dating her regular promotion to the post of PA from 7.4.94 to 26.10.87. The applicant was appointed as Steno Grade D in 1982. As per Rule (3)(c) of the aforesaid rules, appointment to the grade of PA shall be made by promotion from amongst persons in the grade of Stenographers of the Ministry who have rendered not less than 5 years approved service in that grade on the basis of seniority subject to rejection of the unfit. She became eligible for promotion as PA in the year 1987. Since there was no regular vacancy available in the year 1987 and that she was promoted on ad hoc basis against a temporarily upgraded post for so long as the post of 2nd PA to Minister of State was held by an outsider, her claim that she should have been given regular promotion from 26.10.87 has no merit and is accordingly rejected.


8. As regards applicant's second claim for promoting her as PS under rule 4(5)(1)(v) without completing 8 years service, we find that this rule is not applicable. It is



Rule 4(5)(3)(b) which is applicable for promotion to the post of PS. Even for operation of Rule 4(5)(1)(v), 8 years approved service in the grade of PA is necessary. Since she has not completed 8 years service, respondents have rightly rejected her claim for promotion to the grade of PS by the impugned order dated 23.2.2001. Her claim for promotion is not supported by any rules, instructions or law. As regards Smt.Suganti's appointment as ad hoc PS which pertains to 1991, respondents have stated that it was a mis-interpretation of the instructions of DoPT and since this case was not correct, it cannot be quoted as a precedent. Applicant cannot be allowed to take advantage of the mistakes committed by the respondents and applicant has no claim whatsoever for promotion as PS contrary to rule 4(5)(3)(b).

9. Therefore, for the reasons recorded above, we do not find any valid ground to interfere with the order dated 23.2.2001 as the same does not suffer from any illegality. In the result, the OA fails and is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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