

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.509/2001

New Delhi, this the 19th day of November 2001

HON'BLE DR. A. VEDAVALLI, MEMBER (J)  
HON'BLE MR. M. P. SINGH, MEMBER (A)

W/ASI Jaswinder Kaur,  
R/o WZ-74, Janakpark,  
Near Ghanta Ghan, Hari Nagar,  
New Delhi.

... Applicant

(None present)

V E R S U S

1. N.C.T. of Delhi through  
The Chief Secretary,  
Old Sectt. Delhi.
2. The Commissioner of Police,  
Delhi Police Head Quarters,  
I.P. Estate, New Delhi.
3. The Addl. Commissioner of Police,  
Establishment Branch, Delhi Police,  
Head Quarters,  
I.P. Estate, New Delhi.

... Respondents

(By Advocate: Shri Ajay Gupta)

ORDER (ORAL)

By Hon'ble Dr. A. Vedavalli, Member (J) :

None for the applicant even on the second call.

It is seen that none appeared for the applicant even on several occasions earlier also, namely, 21.05.2001, 06.08.2001 and 30.8.2001. In the circumstances, the present OA is dismissed for default and non prosecution. No costs.

(M.P. SINGH)  
MEMBER(A)

/ravi/

(DR. A. VEDAVALLI)  
Member (J)

Fraser m.  
order modified

Item No.16

M.A. No.2705/2001 IN  
O.A. No.509/2001

6th December, 2001

Present: Shri Yogesh Sharma, learned counsel for  
the applicant

None for the respondents

Learned counsel for the applicant seeks and is  
allowed one week's time to file a copy of order dated  
19.11.2001 in OA No.509/2001 passed by the Tribunal.

List the MA 2705/2001 for hearing on  
13.12.2001.

(M.P. Singh)  
Member (A)

(Dr. A. Vedavalli)  
Member (J)

/ravi/

list before 11/3  
is no DB 601

c.A.T order  
not filed

13/12/2001

OA 509/2001

OA Partly allowed by a  
Bench of Hanish G S-Tampi, m(A)  
and Hanish G Rayu m(J) & oral  
order on separate sheet

Boone  
Loddy

(9)

Central Administrative Tribunal  
Principal Bench

MA 2705/2001 IN  
OA 509/2001

Hon'ble Shri Govindan S.Tampi, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the day of 13th December, 2001

W/ASI Jaswinder Kaur,  
R/o WZ-74, Janakpuri,  
Near Ghanta Ghar, Hari Nagar,  
New Delhi. ...Applicant.  
(By Advocate: Shri Yogesh Sharma)

Versus

1. NCT of Delhi through The Chief Secretary,  
Old Sectt. Delhi.
  2. The Commissioner of Police,  
Delhi Police Head Quarters,  
I.P.Estate, New Delhi.
  3. The Addl. Commissioner of Police,  
Establishment Branch, Delhi Police Head Quarters,  
I.P.Estate, New Delhi.
- ...Respondents.  
(By Advocate: Shri Ajay Gupta)

Order(Oral)

By Hon'ble Shri Shanker Raju, Member(J)

In view of the reasons recorded in the MA for restoration of OA, which was dismissed for default and non-prosecution on 19.11.2001, the same is allowed. The OA is restored to its original position.

2. In this OA, applicant has sought a direction to quash and set aside the order dated 25.4.2000 whereby her request for entitlement of the financial upgradation as per ACP Scheme has been rejected. By drawing our attention to letter dated 21.2.94, it is contended that department had already taken decision to grant benefits of past service rendered by her in National Bureau of Plant Genetic Resources from 3.4.87 to 31.8.87

(8)

and towards fixation of pay, pension and carry forward of leave. By further placing reliance on a clarification issued vide OM dated 18.7.2001 more particularly clarification as to doubt 35 where it has been held that where all posts are placed in a higher scale of pay, with or without a change in the designation; without requirement of any new qualification for holding the post in the higher grade, not specified in the Recruitment Rules for the existing post, and without involving any change in responsibilities and duties, the placement of all the incumbents against such upgraded posts is not be treated as promotion/upgradation. In this background, it is contended that the decision of the respondents based on the clarification in OM dated 10.2.2000, is not the latest clarification and the applicant cannot be treated as direct recruitee for the purposes of grant of financial upgradation in ACP Scheme.

3. On the other hand learned counsel of the respondent, strongly rebutting the contentions of the applicant, stated that their decision has been in pursuance of clarification as to the Doubt Nos.4, 5 and 6 vide OM dated 10.2.2000 and as the applicant has been treated as direct recruitee the benefit of this Scheme could not be applicable if she has failed to attain the condition of 12 years of regular service.

4. We have considered the rival contentions of both the parties and also perused the pleadings available on record. The clarification in OM dated

10.2.2000 would not have any application in the present case as by way of latest clarification issued on 18.7.2001, it has been clarified and provided that in case there is no change in designation and no requirement of new qualification for holding the post in higher grade and which is not specified in the Recruitment Rules and there is no change in the responsibilities and duties, placement of incumbents to such upgraded posts is not to be treated as promotion, would have application in the facts and circumstances of the present case. In this view of the matter, the decision taken by the respondents on 25.4.2000 cannot be countenanced.

5. In view of the above discussion and reasons recorded, the application is partly allowed. The impugned order dated 25.4.2000 is quashed and set aside. The Respondents are directed to reconsider the decision regarding granting financial upgradation to the applicant in view of the clarification pertaining to doubt No.35 contained in OM dated 18.7.2001, within a period of three months from the date of receipt of a copy of this order. In the event the applicant has been accorded the same, she is entitled for all the consequential benefits. No costs.

S. Raju  
(Shanker Raju)  
Member(J)  
/kd/

Govindan S. Tampi  
Member(A)