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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.132 of 1999

New Delhi, this 17th day of November 2000

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SHRI M.P. SINGH, MEMBER(A)

Smt. Geeta Sharma
W/o Shri N.K. Sharma
Working as Lecturer in the Paper Craft
and Papier Machie Centre
Bharat Nagar
Delhi

...Applicant

(By Advocates: Shri S.C.Luthra and
Shri S.C.Khokha)

versus

1. Government of N.C.T. of Delhi, through
Secretary & Commissioner of Industries
C.P.O. Building
Kashmere Gate
Delhi-110006

... Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER

Hon'ble Shri M.P.Singh, M(A)

The applicant is aggrieved by orders dated 8.12.1997, 7.10.1998 and 17.12.1998 passed by respondents regarding fixation of her pay and promotion in the grade of Lecturer.

2. The brief facts of the case as stated by the applicant are that she was appointed on regular basis as Senior Instructor in the scale of Rs.425-700 (pre revised) on 1.8.1977. One post of Lecturer in the scale of Rs.550-900 (pre-revised) fell vacant on superannuation of one Shri Namdev in 1984. The applicant was appointed to the post of Lecturer on ad hoc basis for a period of three months on 18.2.1985.



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Thereafter the appointment of the applicant to the post of Lecturer on ad hoc basis was continued from time to time and it was last extended up to 30.6.1994. The pay of the applicant was fixed in the grade of Lecturer and she was granted annual increments in that grade. Though the ad hoc appointment of the applicant was not formally extended beyond 30.6.1994, yet the respondents continued to take work from her of a Lecturer and continued to pay her the pay and allowances admissible to a Lecturer. According to the applicant, the first method of recruitment to the post of Lecturer was by way of promotion. Yet, in disregard to the provisions of Recruitment Rules, the respondents invited applications to fill up the post by transfer on deputation basis vide notification dated 29.2.1994 (Annexure A-9). After the recommendations of the 5th Pay Commission, the pay of the applicant ought to have been refixed in the revised pay scale of Rs.5500-9000 with effect from 1.1.1996 by the respondents. The pay of the applicant was, however, refixed in the pay scale of Rs.4500-7000 by the respondents on 27.10.1997. The applicant contends that as per the Recruitment Rules a Senior Instructor with 7 years regular service in the grade is eligible for promotion to the post of Lecturer and since she completed 7 years service in the grade of Senior Instructor in 1984 she was eligible for appointment as Lecturer on regular basis from that date.



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3. The applicant made a number of representations for her regularisation and fixation of pay in the grade of Lecturer. Thereafter she filed an OA.No.1430/98. During the pendency of the said OA, the respondents passed the impugned order dated 7.10.1998. The OA was disposed of with the liberty to file a fresh OA if her grievance still persisted.

4. The case of the applicant is that she was regularised in the post of Lecturer from 7.10.1998 although she has been continuously working in the post from 1985 onwards. Aggrieved by this, she filed this OA seeking direction to the respondents to accord ex post facto sanction for her appointment as Lecturer for the period from 1.7.1994 to 6.10.1998, to regularise her services in the post of Lecturer with effect from 18.2.1985 and to pay her the scale of Rs.5500-9000 with all consequential benefits including seniority and arrears of salary.

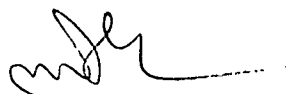
5. The respondents have contested the case and have stated that the applicant was working on ad hoc basis and her appointment was not extended beyond 30.6.1994. However, on the recommendations of the Staff Selection Board meeting held on 2.9.1998 she has been promoted to the post of Lecturer with effect from 7.10.1998. As there was no provision in the recruitment rules for considering the departmental candidate



for promotion to the post of Lecturer before 1993, her claim for appointment as Lecturer on completion of 7 years service as Senior Instructor does not arise. Moreover, the applicant did not have any degree certificate so as to make her eligible for consideration to the post of Lecturer. She was having only a diploma certificate which was also not recognised by the Board of Technical Education. Since she had no promotion avenue, the Recruitment Rules were modified to make her eligible for promotion to the post of Lecturer. In view of the aforesaid reasons, the OA is not tenable and is liable to be dismissed.

6. Heard the rival contentions of the learned counsel for the parties and perused the records.

7. The main grievance of the applicant is that she had completed 7 years of service in the grade of Senior Instructor in 1984. A regular vacancy in the grade of Lecturer was also available at that point of time. She should, therefore, be promoted to the post of Lecturer on regular basis from that date with all consequential benefits. The learned counsel for the applicant submitted that the applicant was appointed on ad hoc basis in 1985 and she continued in that post till she was appointed on regular basis on 7.10.1998 although the formal



order extending her ad hoc appointment beyond June 1984 was not issued. The respondents continued to take work from her as a Lecturer and also paid her the salary for the post of Lecturer. The applicant has also been granted annual increments in the post of Lecturer. He, therefore, contended that she should be appointed as Lecturer on regular basis from the date of her initial appointment as Lecturer on ad hoc basis i.e. 18.2.1985, with all consequential benefits. On the other hand, the learned counsel for the respondents took the plea that the application is barred by limitation.

8. On perusal of records we find that the applicant was not eligible for appointment as Lecturer under the then existing Recruitment Rules. The Recruitment Rules were amended in the year 1993 vide notification dated 20.4.1993 so as to provide the method of recruitment by promotion/ transfer on deputation failing which by direct recruitment (Annexure A-4). A Note under col.11 of the amended Recruitment Rules was appended to the effect that the Departmental candidate in the post of Senior Instructor (Rs.1400-2300) would be considered for promotion along with other candidates and if found suitable by the DPC, he will be deemed to have been promoted to the post of Lecturer in the scale of Rs.1640-2900. Column No.12 of the amended

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Recruitment Rules provides as under:

"1. Promotion from the Senior Instructor in the pay scale of Rs.1400-2300 with 7 years regular service in the grade.

2. Transfer on deputation from the incumbents holding analogous posts from State/Central Govts./Public Undertakings/Autonomous bodies possessing qualifications prescribed for direct recruits under Col.No.8.

(Period of deputation shall ordinarily, not exceed three years)."

9. It would be seen from Columns 11&12 of the Recruitment Rules that the post of Lecturer can be filled up by way of promotion from amongst Senior Instructors with 7 years of regular service in the grade who would be considered along with other persons eligible for consideration by way of transfer on deputation. It is, therefore, amply clear that the method of recruitment by way of promotion is not the first mode of recruitment but is a composite method under which the post can also be filled up by way of transfer on deputation from amongst the incumbents holding analogous posts from State/Central Govts./Public Undertakings/Autonomous bodies possessing qualifications prescribed for direct recruits under Col.No.8. Hence, the contention of the applicant that although the first mode of recruitment was promotion, ~~on~~ ^{by} deputation, the respondents have advertised the post to be filled up by way of transfer on deputation is not correct (para 4.18 of the OA). The action taken



by the respondents to fill up the post by way of promotion/transfer on deputation in 1994 was in accordance with the Recruitment Rules. It is also contended on behalf of the applicant that the ad hoc appointment of the applicant has not been extended from 1994 onwards although the respondents took the work of Lecturer from the applicant and paid her the salary in that grade. The applicant has drawn our attention to certain letters in which she has been referred to as Lecturer by the respondents (Annexure 16/1 to Annexure 16/4) to the rejoinder). The respondents in their reply have controverted this by saying that it is a computer mistake. In any case, merely by addressing letters to the applicant as Lecturer does not entitle her to get promotion to the post of Lecturer on ad hoc basis/regular basis. The ad hoc promotion to the higher grade can be continued depending upon such requirement of the work which is to be decided by the respondents and the applicant cannot claim it as a matter of right. Therefore, the contention of the applicant to continue her ad hoc appointment from June 1994 to 7.10.1998 cannot be accepted.

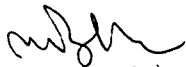
10. Learned counsel for the respondents did not oppose the averments made by the applicant, except that he raised objection on the ground of limitation. The ground of limitation taken by




the respondent is not sustainable as the applicant has challenged the orders dated 8.12.1997, 7.10.1998 and 17.12.1998 and has filed this OA within the time limit prescribed under Section 21 of the A.T.Act, 1985.

11. In view of the reasons stated above, the applicant is not entitled to any relief except that she can get the benefit of ad hoc service rendered by her from 18.2.1985 to 30.6.1994 for fixation of her pay in the grade of Lecturer at the time of her regular appointment to the grade. The OA is partly allowed and the respondents are directed to fix the pay of the applicant in the grade of Lecturer with effect from 7.10.1998 after giving her the benefit of ad hoc service rendered by her in that grade within a period of three months from the date of receipt of a copy of this order.

12. The OA is disposed of with the above directions. No order as to costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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