

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.1647/99

New Delhi, this the 21st day of February, 2000.

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, V.C. (J)
HON'BLE MR. R.K.AHOOJA, MEMBER (A)

Miss. Indu Rani, Quarter No.115,
Type-II, E.S.I. Hospital Colony, Basai
Darapur Ring Road, New Delhi - 110 015.

.....Applicant.

(By Advocate: Sh. M.K.Gupta)

VERSUS

Director General, Employees State
Insurance Corporation, Panchdeep Bhawan:
KOTLA MATA, NEW DELHI-110016
(Sh. R.K.Kapoor, ESI, Inspector, Deptt.
Representative)

....Respondent

O R D E R (ORAL)

By Hon'ble Mr. R.K.Ahooja, M.(A):-

The applicant had been promoted as Junior Hindi
Translator in the Employees State Insurance Corporation
w.e.f. 24.12.1985. Under the rules, she was entitled to
be considered for promotion as Sr.Hindi Translator after
three years. She submits that her name appears at Sl.No.7
in the Seniority List. According to her information, her
case was taken up for promotion to the post of Sr.Hindi
Translator in 1990 but though her juniors at Sl.Nos. 8 to
10 were promoted, this benefit was not given to her
because there was a criminal case pending against her and
the recommendations of the DPC had been placed in a sealed
cover. The Delhi High Court in a Criminal Revision
Petition No.95/88, decided on 1.8.96, quashed the criminal
proceedings against the applicant. Thereafter, on sealed
cover being opened, she was promoted as Sr. Hindi
Translator by the order Annexure A-1 dated 18/23.9.97. It
was, however, stipulated that her promotion shall be
notionally effective from 3.1.91 and her regular pay and
allowances in the higher scale of pay of Rs.1640-2900/-

Dr

shall be available to her only when she joins the promoted post. The applicant made a representation for grant of her pay and allowances in the higher pay scale w.e.f. 3.1.91 i.e. when the next junior was promoted as Sr. Hindi Translator but the same was rejected.

2. The respondents in their reply have stated that after opening the sealed cover and implementing the recommendations of the DPC, the consequential financial benefits arising out of fixation of pay were given to the applicant from the actual date of her taking over the charge on the higher post.

3. Today when the matter came up for hearing, the Deptt. Representative appeared on behalf of the respondents but Counsel for respondents was not present. We have heard Sh. M.K.Gupta, learned counsel for the applicant and have perused the record.

4. The short question which arises in the present OA is whether the applicant having been exonerated from the charge against her, is entitled to the pay in the higher post from the date her juniors were promoted. Sh. Gupta, learned counsel relies on the ratio of Union of India & Ors. Vs. K.V.Jankiraman & Ors., (1991) 4 SCC 109. The Hon'ble Supreme Court of India, while dealing with the question of payment of back wages on the opening of the sealed cover, held as follows:-

"However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion,

(3)

and if so to what extent, will be decided by the concerned authority by taking into consideration all the facts and circumstances of the disciplinary proceedings/ criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so."

5. We have gone through the order of the Delhi High Court and find that the charges framed against the applicant in the trial Court, were quashed as no *prima facie* case was made out against the applicant.

6. Thus, in other words, the applicant was fully exonerated of all the charges framed against her. The Competent Authority in response to the representation of the applicant, has given no reasons as to why she has been denied the pay of the higher post from the date of her notional promotion; all that has been said is that as per the instructions, the applicant is not entitled to the said benefit. We do not find that there was any *factum* or any circumstances which militated against the grant of full pay and allowances to the applicant from due date.

7. In the result, in terms of the law laid down by the Hon'ble Supreme Court in the case of U.O.I & Ors. Vs. K.V.Jankiraman (Supra), we allow this OA. The respondents are directed to fix the pay of the applicant in the higher pay scale from the date of her notional promotion and to pay all the consequential financial benefits including arrears of pay within a period of three weeks from the date of receipt of a copy of this order. No order as to costs.


(R.K. Ahooja)

Member (A)


(V.R. Rajagopala Reddy)

V.C. (J)