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Central Administrative Tribunal
Principal Bench

O.A.No.1198/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 30th day of July, 1998

Smt. Uma Sanduja
w/o Shri Vinod Kumar Sanduja
r/o J-5/113 Rajouri Garden
New Delhi - 27
working as Stenographer Grade-II
Defence Institute of Physiology and
Allied Sciences
Ministry of Defence
Lucknow Road
Timarpur
New Delhi - 110 054.

... Applicant

(By Shri B.B.Raval, Advocate)

Vs.

1. Union of India through
its Secretary
Ministry of Defence
South Block
New Delhi - 110 011.
2. Director General
Defence Research & Development Organisation
Ministry of Defence
South Block
New Delhi - 110 011.
3. The Director
Defence Institute of Physiology and
Allied Sciences
DRDO, Ministry of Defence
Lucknow Road
Timarpur
New Delhi - 110-054.
4. Smt. Seema Gupta
Stenographer Grade-II
S.S.P.L.
Timarpur
New Delhi - 110 054.
5. Smt. Rama Dube
Stenographer-II
S.S.P.L., Timarpur
New Delhi - 110 054.
6. Smt. Rekha Vishnoi
INMAS, Timarpur
New Delhi - 110 054.
7. Smt. Veena Kapoor
Stenographer - II
INMAS, Timarpur
New Delhi - 110 054.

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8. Smt. Kanchan Verma
Stenographer - II
INMAS, Timarpur
New Delhi - 110 054.
9. Smt. Lalita Rani
D.S.C., Metcalfe House
New Delhi.

... Respondents

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant, her name being sponsored by the Employment Exchange, was appointed as Stenographer Grade-III w.e.f. 16.2.1987 in the Defence Institute of Physiology and Allied Sciences (in short DIPAS). Her appointment was regularised w.e.f. 4.12.1989. The applicant submits that she has been making representations to give her regular appointment from the very beginning i.e. 16.2.1987 and further to consider her for promotion to Stenographer Grade-II on completion of five years regular service, on that basis, instead of 1995 when such promotion was granted to her. However by the impugned letter dated 11.3.1998, her representation has been finally rejected.

2. Since, prima-facie, it appeared to us that the OA was time barred under Section 21 of the Administrative Tribunals Act we heard Shri B.B.Raval, learned counsel on this point. The learned counsel for the applicant has pointed out that the case of the applicant was finally put up before the Grievance Committee which, by the impugned letter, Annexure-A1 rejected her representation. Shri B.B.Raval argued that the applicant had sought to exhaust all the remedies available to her departmentally and it was only after getting the final rejection from the Grievance Committee, that she has reluctantly come before this Tribunal. On merits, the learned counsel for

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the applicant argued that since the applicant had in any case continued in service without interruption, right from her initial appointment in 1987, after undergoing the prescribed procedure of selection, her seniority and qualifying service for the purposes of promotion had to be counted from the date of her initial appointment and therefore she should have been promoted to Stenographer Grade-II in 1992 instead of 1995. The learned counsel for the applicant also submitted that if this prayer does not find favour with the Tribunal then applicant's alternative prayer was that she may be granted promotion to Stenographer Grade-II from 1994 when a vacancy in that grade became available.

3. We have considered the matter carefully. The applicant's grievance relates to the nature of her appointment w.e.f. 16.2.1987. She herself in Para 4.8 of the OA submits that she made a representation on 8.6.1989 requesting for regularisation of the said ad hoc appointment as Stenographer Grade-III but to no avail. Her order of regular appointment also is dated 4.12.1989 when she again had an opportunity to make a representation and failing redressal to come before the Tribunal. This she did not do. It has been held by the Supreme Court, in S.S.Rathore Vs. State of M.P., AIR 1990 SC 10, that repeated representations cannot extend the period of limitation ~~under Section 21 of the~~ *Administrative Tribunals Act, 1985*. It is true that her case was considered by the Grievance Committee in 1997 but there is no indication that the Grievance Committee was constituted by way of an appellate authority under the Rules. If repeated representations do not extend the period of limitation the repeated rejections of such

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representations cannot go on creating a fresh cause of action each time. Consequently we find that the OA is barred by limitation.

4. The applicant has also filed a Miscellaneous Application No.1232/98 for condonation of delay. We do not find any satisfactory explanation for the delay and the same is also accordingly rejected.

5. On merits also we find little to commend in the application. The applicant states that one Smt. Anita Sethi, Stenographer Grade-II was transferred to CPO in 1988 and as a result a post of Stenographer Grade-II became available in DIPAS. The applicant also submits that one Shri Bishamber Nath who was two places senior to her and who was also working as Stenographer - Grade-III was eligible for promotion and he could have been so promoted against the vacancy created by the transfer of Smt. Anita Sethi on 15.6.1988. Consequently, it is argued that the applicant could have been regularised in the vacancy created by the promotion of Shri Bishamber Nath. It would be seen that there was no post of Stenographer Grade-III available on 23.11.1987 but the applicant says that a person senior to her should have been promoted which would have released/resulted in a vacancy. If Shri Bishamber Nath was not given promotion, the applicant cannot make a grievance of it. In the service matter one deals with Rules and not with suppositions. If no regular vacancy, in fact, was available then no regular appointment could have been made. The case of the applicant is thus without any foundation.

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6. As regards the applicant's claim that she would be entitled to count the period of ad hoc service towards seniority and qualifying service for next promotion, no details have been given as to the Rules or whether promotion vacancies were available in 1992. Suffice it to say that if Recruitment Rules provide 'regular service' for five years as qualifying service then applicant's appointment having been regularised from 1989, she could not have been considered for promotion in 1992.

7. As regards the learned counsel's submission that we may consider her alternative prayer for her promotion w.e.f. 1994, it is noticed that no case has been made out except to say that such vacancy was available on 11.5.1994 and that the applicant could have been promoted against the said vacancy. In fact, it is not one of the prayers of the applicant made in the relief column.

8. We therefore find that the applicant's case is liable to be dismissed both on the ground of limitation as well as on merit. It is so ordered accordingly.

Km
(K.M. Agarwal)
Chairman

RK Ahuja
(R.K. Ahuja)
Member(A)

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