

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1262/98

New Delhi:

Decided on 25.1.1999

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Mrs. Raj Rani Singh,
W/o Late Shri Man Mohan Singh,
R/o House No.8612,
Palace Cinema,
Bhar Ghar,
Delhi -07

..... Applicant.

(By Advocate: Shri B.B. Raval)

Versus

1. Indian Council of Agricultural Research
through
the Director General, Cum
Secretary,
Department of Agricultural Research &
Education,
Krishi Bhawan,
New Delhi -01
2. The Director,
Indian Agricultural Statistics Research Institute,
Library Avenue,
New Delhi -012.
3. Smt. Usha Rani Sood,
Employed as Junior Clerk in the Office of
IASR Institute,
Library Avenue,
New Delhi -012

..... Respondents.

(By Advocate: Shri V.K. Rao
proxy Ms. Geetanjali).

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns Respondents' order dated 16.6.98 (Annexure-A) appointing Respondent No.3 as Junior Clerk and prays for appointment to the said post of Junior Clerk from the date Respondent No.3 was so appointed, with consequential benefits including costs.

2. I have heard Shri B.B. Raval for applicant and Ms. Geetanjali for Respondents No.1 and 2. None

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appeared for Respondent No.3 and no reply has been filed on her behalf despite service of notice upon her.

3. It is not denied that consequent to sad demise of applicant's husband who was an UDC, she was appointed on compassionate ground as a Group 'D' employee on daily wages vide Memo dated 29.6.90 (Annexure-A1) and was thereafter put in the scale of Rs.750 - 940/- as has been Group 'D' employee w.e.f. 31.8.90.

4. Applicant prayed for appointment as LDC vide representation dated 6.2.91 (Annexure-A4) and was informed on 21.2.91 that if she was qualified she could have applied as a departmental candidate whose recruitment would be made on merit (Annexure-A5). Her prayer for forwarding her case to D.G., ICAR was also rejected vide Memo dated 9.8.91 (Annexure-A6).

5. It is also not denied that Respondent No.3 who like the applicant was also appointed on compassionate appointment as Group 'D' employee on 28.5.97 i.e. after 7 years of applicant compassionate appointment, was being considered for the post of LDC. Applicant submitted a representation on 12.6.98 (Annexure-A7) for similar consideration as LDC, but no reply was given to her and 4 days later respondents issued the impugned order dated 16.6.98 appointing Respondent No.3 as Junior Clerk.

6. In support of the impugned order dated 16.6.98 respondents have taken the plea in the reply that the Respondent No.3 belongs to Reserved Community and she was representing to the higher authorities for appointment to Group 'C' post even prior to

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her appointment as Group 'D'. It is also stated that each case of compassionate appointment is considered as a separate case on the basis of merits and details like status of the officer and official who died while in service, other financial assistance admissible to the applicant etc.

7. I have considered the matter carefully.

8. Admittedly both applicant as well as Respondent No.3 were appointed as Group 'D' employees on compassionate grounds and the applicant is much senior to Respondent No.3 in terms of length of service. In U.K.Nagpal Vs. State of Haryana & Ors. JT 1994(3) SC 525 the Hon'ble Supreme Court has held that the grant of compassionate appointment to the member of the family of a Govt. employee who dies in harness is an exception to the right to equality enshrined in Articles 14 and 16 of the Constitution and can be justified only by the immediate need to save the family from imminent penury.

Respondents may have been fully justified in appointing applicant as well as Respondent No.3 as Group 'D' employees on compassionate grounds, but having been so appointed, these two appointees could be appointed/promoted to the next higher level of LDC only in accordance with the relevant rules/ instructions and not by yet another act of compassionate appointment dehors those rules/instructions. For this purpose respondents would have to determine whether in accordance with the relevant RRs. and instructions the vacancy of LDC filled by the impugned order, is required

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to be filled through direct recruitment or through a limited departmental Competitive Exam., or seniority-cum-merit or any other prescribed mode. Respondents would also have to keep in view the age, educational and other eligibility qualifications; whether the vacancy is a reserved one or not and all other relevant considerations, prescribed under the concerned rules and instructions before taking steps to fill up the vacancy. None of the above appear to have been done while filling up the vacancy of LOC by impugned order dated 16.6.98 which therefore cannot be sustained in law.

9. In the result, the OA succeeds and is allowed to the extent that the impugned order dated 16.6.98 is quashed and set aside and the respondents are directed to fill the resultant vacancy in accordance with rules and instructions on the subject. No costs.

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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