

Central Administrative Tribunal  
Principal Bench

O.A. No. 425 of 1998

New Delhi, dated this the 10<sup>th</sup> AUGUST, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Mrs. Anita Singh,  
W/o Shri Deshbandhu Singh,  
Technical Assistant  
Dept. of Archaeology,  
NCT of Delhi,  
Delhi. .. Applicant

(By Advocate: Shri G.D. Gupta)

Versus

1. Government of NCT of Delhi  
through its Chief Secretary,  
5, Sham Nath Marg,  
Delhi-110054.
2. Union Public Service Commission  
through its Secretary,  
Dholpur House,  
Shahjahan Road, New Delhi.
3. Director,  
Dept. of Archaeology,  
Dara Shikon Library Building,  
Kashmeri Gate, Delhi.
4. The Secretary (Services),  
Govt. of NCT of Delhi,  
Delhi.
5. Shri Kishan Lal,  
Archaeological Officer,  
Dept. of Archaeology,  
Govt. of NCT of Delhi, Delhi.
6. The Secretary,  
Administrative Refers Dept.  
Government of NCT of Delhi,  
5, Sham Nath Marg,  
Delhi-54. .. Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated  
26.4.90 (Annexure A-1) and 12.2.97 (Annexure A-2).

She also impugns respondents' order dated 7.4.97

2

(Annexure A-3) and prays for setting aside the absorption of Respondent No.5 as Technical Assistant in Archaeology Department. She prays that a review DPC be held to consider her claim also for promotion as Documentation Officer.

2. Heard both sides.

3. As per relevant Recruitment Rules (Annexure A-C) the post of Documentation Officer is to be filled (i) 50% by promotion failing which by transfer on deputation and failing both by direct recruitment; (ii) 50% by direct recruitment. In case of promotions, Technical Assistants with 5 years regular service in the grade are eligible while in case of transfer on deputation, officers under Central/State Government/Union Territories holding (i) analogous posts on regular basis or (ii) with 5 years regular service in the pay scale of Rs.1400-2300 or equivalent and possessing the prescribed educational/experience qualifications are eligible.

4. As per applicant's own averment in the O.A., Respondent No.5 (R-5) was initially appointed as Assistant Architect Grade II (Rs.1400-2300) in Department of Archives on 20.8.80. Upon that post being abolished in February, 1987 he was declared

~

surplus in Department of Archives and was absorbed as Technical Assistant in Archaeology Dept. on 22.5.89. Applicant was herself directly recruited as a Technical Assistant on 17.5.89.

5. Her contention is that in the 1997 seniority list of Technical Assistants (Annexure A-8) she has been shown senior to R-5 and official respondents could not have promoted R-5 as Documentation Officer vide impugned order dated 26.4.90 in the absence of his possessing the five years of regular service as Technical Assistant prescribed for the post. It is contended that if R-5 was given benefit of any relaxation of rules in this regard, applicant was also entitled to such relaxation.

6. We have considered these contentions carefully.

7. At the outset we note that the impugned order promoting R-5 is dated 26/4/90, while first representation made by applicant to respondents in this regard is dated 2.1.97 and the O.A. itself was filed in February, 1998. Respondents have correctly pointed out that applicant can not claim to have been unaware that R-5 had been promoted as Documentation Officer vide order dated 26.4.90 and hence this O.A. is severely time barred and hit by limitation.

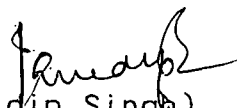
8. That apart, we notice from respondents' reply that it is not a case where the candidature of applicant for promotion as Documentation Officer was not considered. Respondents in Para 4.6 of their reply to the O.A. have explicitly stated that a DPC was held on 12.4.90 to consider filling up the single post of Documentation Officer. At that time there were three Technical Assistants namely applicant herself, R-5 and one other. Being a selection post (the Recruitment Rules are clear that this is so) the DPC considered the candidature of all the three Technical Assistants and recommended R-5 for the post. Applicant and the other candidate did not possess the requisite experience prescribed under the Recruitment Rules and as such the appointment/selection of R-5 as Documentation Officer was done in accordance with procedure and by way of 'selection' he superseded applicant.

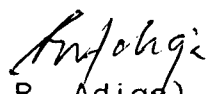
9. It is thus not a case where the claim of applicant for promotion as Documentation Officer was not considered. If, as contended by applicant, R-5 did not possess the five years regular service as Technical Assistant prescribed in the relevant Recruitment Rules, applicant also did not possess the same, and her claim for promotion as Documentation Officer already having been considered by the DPC in its meeting on 12.4.90, she gets no enforceable legal right to compel respondents to hold a review DPC to

19

consider her case for promotion as Documentation Officer yet again.

10. The O.A. is dismissed. No costs.

  
(Kuldeep Singh)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

'gk'