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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.706/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 18th day of September, 2000

Dr. (Smt.) Tara Thomas  
Wife of Shri V.M.Thomas  
working as Regional Home Economist  
(FWD Unit)  
Directorate Extension  
Ministry of Agriculture  
Department of Agriculture and Cooperation  
Krishi Vistar Bhavan  
I.A.S.R.I.Complex, PUSA  
New Delhi - 110 012.  
r/o Room NO.103, Contenary Hostel  
YWCA, Ashok Road  
New Delhi - 110 001. ... Applicant

(By Shri E.X.Joseph, Sr. Counsel with Ms. Arati  
Mahajan, Advocates)

Vs.

1. Union of India through the  
Secretary to the Government of India  
Ministry of Agriculture  
Krishi Bhawan  
New Delhi - 110 001.
2. The Director of Administration  
Directorate of Extension  
Ministry of Agriculture  
Department of Agriculture and Cooperation  
Krishi Vistar Bhavan  
IASRI Complex, PUSA  
New Delhi - 110 012.
3. The Secretary to the Government of India  
Department of Personnel & Training  
Ministry of Personnel, Public Grievances and Pensions  
North Block  
New Delhi - 110 001.
4. The Union Public Service Commission  
through its Secretary  
Dholpur House  
Shahjahan Road  
New Delhi - 110 011. ... Respondents

(By Shri K.C.D.Gangwani with Shri D.S.Jagotra,  
Advocate)

O R D E R (Oral)

By Justice V. Rajagopala Reddy:

Heard the counsel for the applicant and the  
respondents.

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2. The promotion to the post of Regional Home Economist in the Department of Agriculture and Co-operation, Ministry of Agriculture to the applicant is under question in this OA.

3. The applicant was initially appointed in 1972 as Senior Research Assistant. Under the existing recruitment rules, the next higher post of Regional Home Economist was to be filled up only by a direct recruitment. The Rules have been amended in 1988 by which 50% of posts were to be filled by way of promotion and the remaining by direct recruitment. The applicant was considered for promotion in the DPC held in September, 1989 to the post of Regional Home Economist but she was not recommended for promotion. Aggrieved by the action of the respondents in this regard, she filed OA No.1125/89 before the Bangalore Bench of the CAT seeking promotion to the post of Regional Home Economist w.e.f. 1989. The Tribunal, by order dated 10.4.1990, directed the respondents to consider the case of the applicant for promotion in the reserved vacancy, which could not be filled up due to the non-availability of SC candidate, within a period of three months from the date of receipt of the order. Purporting to implement the said order, the applicant was promoted w.e.f. 17.1.1991. The present OA is again filed for the same relief of promotion to the post of Regional Home Economist on the ground that the respondents by filing a false reply in the OA, misled the Tribunal resulting in injustice to the applicant. It is the case of the applicant that she

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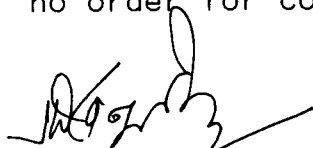
ought to have been promoted in 1989 as there was a clear general vacancy itself and the question of dereservation would not arise.

4. A preliminary objection is taken as to the maintainability of the OA on the ground of resjudicate as well as on limitation. It is also averred in the reply that as the vacancy meant for promotion has been reserved for SC, it was dereserved only in 1991 to accommodate the applicant and consequently the applicant was promoted in 1991. The allegations of filing false reply are denied.

5. We have given careful consideration to the contentions advanced by the learned counsel on either side. Shri E.X. Joseph, Senior Advocate appearing on behalf of the applicant, submits that as the applicant was holding the post of Regional Home Economist on ad hoc basis since 1989 and as per the revised recruitment rules, she was entitled to be considered for promotion and ~~therefore~~ she ought to have been promoted for the said post w.e.f. 1989. Basing reliance upon the reply filed by the respondents in OA No.1663/96 filed by the applicant, before the Principal Bench for a different relief, where it was said to have been stated that there was a general vacancy available for promotion to the post of Regional Home Economist and there was no need for dereservation for promotion post, learned counsel vehemently contends that the Tribunal, while disposing of the OA No.1125/90, was misled resulting in an incorrect decision and causing injustice to the applicant. Learned counsel submits as the Tribunal has power of

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judicial review, it can entertain the OA to render justice to the applicant as she was left without a remedy. In our considered view, this OA cannot be entertained. The applicant cannot be permitted to re-agitate the same question which has been agitated for the same relief, in the earlier OA filed by her. As seen in the pleadings in the earlier OA 1125/90, the applicant prayed for the same relief as prayed for in this OA, i.e., promotion to the post of Regional Home Economist w.e.f. 1989. Her grievance has been considered by the Tribunal and disposed of the OA with a direction to consider the case of the applicant for promotion and the order has become final. If the applicant discovered that the facts were suppressed and false statement was made by the respondents, the only course open to the applicant was to file a review under Rule 17 of the Central Administrative Tribunals (Procedure) Rules, 1987 to seek either to modify the order or recalling the earlier order. If the court finds that any material was suppressed or fraud was played by the respondents, it is not powerless to pass suitable orders to render justice. In our view it is not open to the applicant to file a fresh OA on the same relief. In the circumstances, without going into the merits of this case, the OA is dismissed on the ground of resjudicate. In the circumstances we order no order for costs.

  
(GOVINDAN S. TAMPI)  
MEMBER(A)

  
(V. RAJAGOPALA REDDY)  
VICE CHAIRMAN(J)

/RAO/