

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 480/1995

(19)

New Delhi this the 24th day of August, 1999.

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

HON'BLE SHRI SYED KHALID IDRIS NAQVI, MEMBER (J)

Smt. Aruna Kanchan W/O Anoop Saxena,
R/O 121-ST Grain Shop Colony,
Rest Compound,
Tundla (UP).

... Applicant

(None present for Applicant)

-Versus-

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Chief Personnel Officer,
Northern Railway,
Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway,
Allahabad.

4. Principal,
Northern Railway Inter College,
Tundla (UP). ... Respondents

(By Shri R. L. Dhawan, Advocate)

O R D E R (ORAL)

Shri R. K. Ahoja, AM :

The applicant submits that she was initially appointed as Assistant Teacher in the Northern Railway Primary School (Girls), Roza, Shahjahanpur (UP) on 26.10.1976. She claims that she has post graduate qualification and holds Master's Degree both in Hindi and Sanskrit as well as B.Ed with 18 years' teaching experience. As such, she also claims for being considered for selection to the post of Lecturer in

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the grade of Rs.1640-2900, even though her initial appointment as Assistant Teacher was in the grade of Rs.1200-2040. The applicant submits that being the seniormost and highest qualified available candidate in the cadre of Assistant Teachers, she was asked to officiate as Lecturer both in Hindi and Sanskrit by order dated 17.2.1987 at Northern Railway Inter College, Tundla against a clear permanent vacancy. Her grievance is that ignoring her claim for regularisation against the said post of Lecturer, the respondents have regularised the appointment of one Smt. Anjana Srivastava to the post of Lecturer, Hindi.

2. The respondents in their reply have stated that the O.A. is not maintainable as barred by res judicata, as the applicant had sought the same reliefs in O.A. No.1096/89 before the Allahabad Bench of this Tribunal. The said O.A. was dismissed by an order dated 16.8.1994. Even otherwise, according to the respondents, the applicant cannot seek comparison with Smt. Anjana Srivastava as the latter was appointed directly as Lecturer as a substitute and was not in the cadre of Assistant Teachers as is the case of the applicant.

3. None appeared on behalf of the applicant either yesterday or today when the case was taken up. We have, however, gone through the record and have also heard Shri Dhawan for the respondents.

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4. In O.A. No. 1096/89, SMT. ARUNA KANCHAN v

UNION OF INDIA, the relief sought for by the applicant was for a direction to the respondents to consider her case for appointment/promotion to the post of Lecturer, Hindi and Sanskrit in the grade of Rs.1640-2900. Further direction sought was to declare her as permanent in the grade of Rs.1640-2900. The reliefs sought for in the earlier O.A. No.1096/89 and the present O.A. are identical.

5. When this objection was raised at the time of admission, a plea was taken on behalf of the applicant that the ground for seeking relief was different in the present O.A. inasmuch as the applicant was aggrieved by the action of the respondents in regularising the services of Smt. Anjana Srivastava while in the earlier O.A., the case for seeking direction for regularisation was on the basis of her qualification and her longer officiation. We do not consider that a change in the grounds permits the applicant to overcome the bar of res judicata. Here also the relief sought for is the same, namely, appointment/promotion to the grade of Lecturer and the same relief has been rejected in the earlier O.A. filed by the applicant. The applicant cannot now re-agitate the same issue on the plea that somebody else has been granted regularisation. Once the Tribunal has found that the applicant's claim for promotion/appointment directly from the post of Assistant Teacher to that of Lecturer is not maintainable, then the induction of an outsider, i.e.,

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Smt. Anjana Srivastava, who was admittedly not similarly placed as the applicant since she was never an Assistant Teacher, does not call for interference as the applicant does not have a claim under the rules for being appointed as Lecturer on promotion. We do not, therefore, find that mere reference to Smt. Anjana Srivastava would change the position of merits of the case of the applicant. Since that merit has already been adjudicated upon in the earlier O.A. filed by the applicant, she cannot now re-agitate the same in the present O.A.

6. As a result, we find that the application is not maintainable as it is hit by res judicata. The same is accordingly dismissed. No costs.

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

Syed Khalid Idris Naqvi
(Syed Khalid Idris Naqvi)
Member (J)

/as/