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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.1747/96

New Delhi this the 2nd day of December, 1998.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

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

Smt. Kamlesh Mittal,
Assistant/Budget Section,
Accounts Branch, FHQ, CISF HQrs.
CGO Complex, Lodhi Road, New Delhi.

..Applicant

(By Shri A.K.Bhardwaj)

vs.

1. Union of India,
Through:
The Secretary, Ministry of Home Affairs,
Central Secretariat,
New Delhi.

2. The Director General,
Directorate General, CISF,
Ministry of Home Affairs, Block No.13,
CGO Complex, Lodhi Road, New Delhi.

3. The Dy. Inspector General (Admin),
Central Industrial Security Force,
DIG (Admin), CGO Complex, Lodhi Road,
New Delhi.

4. Shri R.C.Mittal,
C/o Dy. Inspector General (Admin.),
Central Industrial Security Force,
(DIG) Admn., C.G.O. Complex, Lodhi Road,
New Delhi.

..Respondents

(By Ms. Aparna Bhat)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

O R D E R

The applicant, Smt. Kamlesh Mittal, commenced her career in the Central Industrial Security Force as a Lower Division Clerk in the year 1970. On completion of 5 years of regular service she claims to have become eligible for promotion as Upper Division Clerk on 17.3.1975 as per the recruitment rules. However, she was promoted as Upper Division Clerk only with effect from 29.8.77 while Shri R.C.Mittal, the 4th

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respondent, who joined as L.D.C. on 26.8.70 and Shri A.K.Malhotra, who joined as L.D.C on 24.3.1970, were promoted as Upper Division Clerks with effect from 9.7.76. The applicant was promoted as Assistant only with effect from 10.12.84, though according to her she had acquired the eligibility for such promotion in the year 1982. S/Shri Mittal and Malhotra were promoted as Assistants before she was promoted. The recruitment rules for promotion to the post of Assistant were amended reducing the quota of promotees and thus, the amended recruitment rules, according to the applicant, were used for making promotions even towards vacancies which existed prior to the amendment of the recruitment rules. According to the applicant, by giving undue benefit to some deputationists like Sri S.P.Sharma etc., the applicant's seniority was suppressed and she became Sl.No.16 in the gradation list of Assistants, while she claims a placement between Sl.Nos. 9 and 10. Detailing all these grievances, the applicant made a representation to the second respondent on 7.12.95. In reply to this representation, the applicant received the impugned letter dated 2nd July 1996 of the 3rd respondent informing that her representation had been considered and rejected by the second respondent on the ground that there was no merit in her claim. Aggrieved by this order, the applicant has filed this application for a declaration that the impugned order rejecting her representation, is arbitrary, irrational and unjustified,

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that she should be considered for promotion to the post of Upper Division Clerk and Assistant with effect from the date on which her junior Sri R.C.Mittal was considered with consequential benefits, that the filling up of the vacancies of Assistants which existed prior to the amendment of the recruitment rules, in accordance with the amended recruitment rules, was illegal and discriminatory and for a direction to the respondents to consider the applicant for promotion to the post of Section Officer before S/sri A.K.Malhotra, S.P.Sharma and R.C.Mittal etc. are considered.

2. When the application came up for hearing on admission on 11.9.96 before notice to the respondents, the application was admitted and then notice was issued.


3. The respondents in their reply have contended that the application is hopelessly barred by limitation, since the reliefs claimed relate to the period 1976 and 1982, that the non-promotion of the applicant as Upper Division Clerk, though she was considered during the year 1975 and 1976 was on account of her poor service record, that Shri R.C.Mittal and Shri Malhotra were promoted as Upper Division Clerks ahead of her because of the better service records of Shri Mittal and as Shri Malhotra had cleared the Limited Departmental Competitive Examination, that the Departmental Promotion Committee considered the applicant for promotion as Assistant in the year 1984 as she was not eligible to be considered in the year 1982 as she had not completed 5 years on the date of DPC, that while the applicant was considered along with S/sri R.C.Mittal and A.K.Malhotra etc, she could not be promoted as there were only two vacancies, that Sri A.K.Malhotra had superseded her on the basis of better

service profile, that the adjustment of the deputationists and drawing up of seniority was in accordance with the recruitment rules and there was no irregularity in doing so and that all the grievances of the applicant having arisen in 1976, 1982 and 1984 and that the applicant has not represented about any defect in the seniority position assigned in the various seniority lists circulated till she made representation only on 7.12.95 and that the applicant is not entitled to any relief sought as seniority settled more than a decade ago cannot be unsettled.

4. Given the facts and circumstances emerging from the pleadings and materials placed on record our anxious consideration and after hearing the learned counsel on either side, we are of the considered view that there is absolutely no subsisting grievance of the applicant calling for adjudication. The applicant has for the first time in her representation made on 7.12.95 complained about the suppression of her seniority in the grade of Upper Division Clerk which occurred in the year 1976, of Assistants which occurred in the year 1982 and 1984 and of the filling up of the posts in accordance with the amended recruitment rules which again happened in the year 1984. There is no case for the applicant that when S/Sri R.C.Mittal and Malhotra were promoted as Upper Division Clerks in the year 1976 ahead of her, she was unaware of the supersession. There is absolutely no reason why the applicant did not challenge the supersession and the consequential suppression in the

seniority. There is no case for the applicant that the gradation list of Upper Division Clerks and Assistants were not circulated. If posts of Assistants were filled not in conformity with the relevant recruitment rules, the applicant should have if she had a grievance sought appropriate reliefs immediately. It is not permissible to rake up the question of seniority after a decade for it is well-settled by now that settled position of seniority cannot be unsettled after a lapse of long time. On merits also, the applicant does not have a case for seniority above the 4th respondent or Sri Malhotra for they had been promoted on the basis of the recommendation of the Departmental Promotion Committee as they had better service record than the applicant and the non-promotion of the applicant initially as Upper Division Clerk was on account of her poor service profile, according to the respondents. About the seniority given to those who were absorbed while on deputation also the applicant has not agitated the matter at the appropriate time and has not impleaded any one of them in this Original Application. After their absorption seniority list was circulated and if the applicant had any grievance, she would have agitated that.

5. In the light of what is stated above, finding no merit in this application, the application is dismissed leaving the parties to bear their own costs.


R.K. AHOOJA
MEMBER(A)


A.V. HARIDASAN
VICE CHAIRMAN