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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.826/96

New Delhi this the 24th day of April 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Smt Kanta
W/o Sh.Chander Shekhar
R/o C-103 Sarojini Nagar
New Delhi.

Working as Technical Assistant
Central Translation Bureau
CGO Complex
Lodhi Road
New Delhi.

...Applicant.

(By Advocate: Sh. M.K.Gupta)

Versus

1. Union of India through
The Secretary
Dept. of Official Language
Ministry of Home Affairs
North Block
New Delhi

2. Central Translation Bureau
through its Director
8th floor, Paryavaran Bhavan
CGO Complex
New Delhi.

...Respondents.

ORDER (Oral)

Shri A.V.Haridasan, Vice Chairman (J)

The applicant has impugned the seniority list of technical assistants issued by the second respondents as on 1.1.1995 with all its consequential benefits and also prayed for a direction to the respondents to count her service as Technical Assistant w.e.f. 6.5.81 to 10.8.94 for the purpose of seniority etc. and to promote the applicant to the next higher post from the date her juniors were promoted. She has also sought to quash the order dated 30.8.94 to the extent which regularise the applicant w.e.f.10.8.94 with all its consequential benefits.

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2. The applicant who commenced service as LDC on 1.4.72 on which *post* she was confirmed on 1.1.76 was appointed as Technical Assistant w.e.f. 6.5.81 purely on ad-hoc basis. After a period of 7 years when she was threatened that she would be reverted and her service would not be regularised, the applicant filed OA No. 1322/88. When the case came up for hearing, the Tribunal restrained the respondents from reverting her from the said post. This application was disposed of by order dated 12.10.93. Noting that the applicant was continued in service for a period of 7 years purely on ad-hoc basis and that the applicant fulfilled educational and other qualifications required for direct recruitments, it was held that it was a fit case for the respondents to consider her case sympathetically and to induct the applicant as a regular Technical Assistant. The application was disposed of with a direction to the respondents to consider the feasibility of inducting the applicant as a regular Technical Assistant and it was directed that till such time a decision was taken, after relaxation of the relevant rules, she shall continue as ad-hoc Technical Assistant. On the basis of this direction, the respondents considered the case of the applicant and they issued an order on 30.8.94 appointing the applicant as Technical Assistant on regular basis w.e.f. 10.8.94.

3. On the basis of this regular appointment as Technical Assistant, the impugned seniority list had been prepared and circulated. Aggrieved by this, the applicant preferred an appeal in which she claimed that she should have been considered and her seniority should have been reckoned from the date on which she commenced ~~her service~~ w.e.f. 6.5.81. This request having been rejected, by the order dated 7.3.96, the applicant has filed this application. She claims that she is entitled to be considered as regular Technical Assistant w.e.f. 6.5.81.

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4. Having perused the pleadings in the application and materials annexed thereto, the rules in regard to recruitment ^{of} the posts, and having heard the learned counsel of the applicant, we are of the considered view that there is little in this application which needs further deliberation and adjudication. The prayer of the applicant for regularisation was not granted by this Tribunal in its order dated 12.10.93. Taking note of the fact that the applicant possessed necessary qualifications for recruitment ^{of} the post, that she was physically handicapped and had been continued on ad-hoc basis for a long period on the post, the Tribunal directed the respondents to consider her case with due sympathy and to examine the feasibility of her induction as a regular Technical Assistant, if needed, by relaxing the relevant provisions of the recruitment rules. If she had established that she was appointed as regular technical assistant from the date she was appointed on ad-hoc basis, the Tribunal would ~~have come with an order~~ ^{have allowed the OA on full.} It was not granted. The Tribunal only directed the respondents to consider her induction. The respondents have ~~not~~ considered her case sympathetically and have ~~not~~ inducted the applicant as regular Technical Assistant w.e.f.10.8.94. She is entitled to have her seniority counted only from that date. Learned counsel of the applicant Shri M.K.Gupta invited our attention to a ruling of the Hon'ble Supreme Court in State of West Bengal Vs. Akhor Nath 1993 - Vol III Dey SCC 371 wherein it was observed that if an appointment was made without specifying the tenure, even if the appointment suffers from any flaw, the service rendered by the person should not be ignored for the purpose of seniority. The case on hand is not similar to the one under ^{Citation} discussion. In this case, it is not disputed that the applicant was ^{not} recruited along with others by the SSC. The applicant was appointed on ad-hoc basis only as a temporary measure. It is not a case where the applicant was appointed, but there was some flaw in her appointment. Under the circumstances, as her rights have already been taken care of by the Tribunal in the earlier OA, we do not find any scope for further adjudication and intervention.

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5. Learned counsel of the applicant also referred to a ruling of the Hon'ble Supreme Court in Ashok Kumar Sharma Vs. Chandraprakash, reported in 1993 Supplimentary 2 SCC 611 wherein it was held that when if it is ^{is} observed equity is done, it should be done in full. The applicant sought equity before the Tribunal. She filed an earlier OA which was disposed of on 12.10.93. Considering the entire background of the case, an equitable view was taken and it was on that basis, the applicant got appointed on a regular post w.e.f. 10.8.93. Therefore, nothing more is to be done in the case of the applicant. Hence the application is rejected.


(R.K.Ahooja)

Member (A)



(A.V.Haridasan)

Vice Chairman (J)

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