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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.118/96

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 29th day of November, 1999

Mrs. Nimbha Rani Bose
w/o Late Shri Drupud Bose
r/o Block No.50/3-A, Diz Area
Sector II, near Gole Market
New Delhi. ... Applicant

(By Shri S.K.Bandopadhyaya, Advocate)

Vs.

1. Union of India through
Secretary
M/o Health & Family Welfare
Department of Family Welfare
Nirman Bhawan
New Delhi.
2. Chief Director (Evaluation & Intelligence)
Department of Family Welfare
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi. ... Respondents

(By Shri Rajinder Nischal, Advocate)

O R D E R (Oral)

Shri R.K.Ahooja, Member(A)

The applicant, who was recruited as an Evaluation Assistant, was promoted and appointed on an ad hoc basis as an Evaluation Officer w.e.f. 13.9.1984. She continued to work uninterruptedly in that position till her promotion was regularised on the basis of a Departmental Promotion Committee (DPC) vide order dated 9.8.1994. Her grievance is that her services have not been regularised as an Evaluation Officer from the date she was appointed as such an ad hoc basis and as a result she has not been considered for the post of Senior Evaluation Officer for which eight years regular service as an Evaluation Officer is required.

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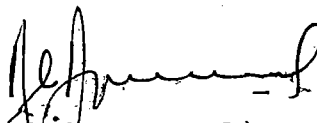
2. The respondents in their reply have stated that on the date of her appointment on ad hoc basis she still lacked three months to complete the qualifying period of eight years for promotion from Evaluation Assistant to Evaluation Officer. Later a DPC could not be convened as Department had a proposal to transfer persons from another source to fill up the posts. However, on instructions, Shri Rajinder Nischal, learned counsel for the respondents stated before us that ultimately no persons were transferred and the vacancies continued to be available.

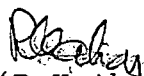
3. While it is true that the applicant has continued without interruption to work as an Evaluation Officer right from the date of her ad hoc appointment till the date of regularisation, since her initial appointment was made de hors the Rules inasmuch as she had not completed the requisite qualifying service, the relief sought for by her cannot be granted. Nevertheless, the applicant was eligible to be considered for promotion as Evaluation Officer in accordance with the Rules, if vacancies were available, when she completed her qualifying service. The respondents say that they had made a reference to the DoPT as to whether the applicant could be regularly promoted from the date she had completed eight years service but latter Department advised that the regularisation should be from the date of holding of the DPC. No reasons however were given for this advice.

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4. We find that the applicant continued to work on ad hoc basis, for no fault of her, even though she was the seniormost Evaluation Assistant in the Department and the very fact that she continued uninterruptedly to work as Evaluation Officer shows that a vacancy was available for her through out this period.

5. In the aforesaid facts and circumstances, we consider it appropriate that the respondents should be directed to convene a review DPC to consider the case of the applicant for regular promotion as an Evaluation Officer from the date the vacancy was available and she had become eligible. The date of her regularisation will be pre-poned accordingly in terms of the recommendations of the DPC, i.e., the date from which she is found eligible and suitable for promotion as an Evaluation Officer. She will however not be entitled to any monetary benefits if her appointment as an Evaluation Officer is pre-poned in terms of these directions. Her case for further promotion as Senior Evaluation Officer will, however, be considered in accordance with her revised seniority fixed by the respondents. No order as to costs.~


(Ashok Agarwal)
Chairman


(R.K. Ahooja)
Member(A)

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