

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(15)

OA NO.1717/97

New Delhi, this the 21st day of August, 2000

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Smt. Sarada Devi. S.,
wife of Sh. M.V.Murthy,
Asstt. Education Officer,
CHD, Correspondence Course Deptt.,
Central Hindi Directorate,
West Block No.7, R.K.Puram,
New Delhi-110066.

Resident of:

A-59, Pandara Road,
New Delhi-110003. Applicant
(By Advocate: Sh. K.L.Bhandula)

VS.

1. Secretary to the Govt. of India,
Ministry of Human Resources Development,
(Department of Education),
Shastri Bhawan, New Delhi-110001.
2. The Director,
Central Hindi Directorate,
West Block No.7, R.K.Puram,
New Delhi-110066.
3. Dr. G.P.Vimal,
Director,
Central Hindi Directorate,
West Block No.7, R.K.Puram,
New Delhi-110066.
4. Sh. D.S.Tripathi, A.E.O.,
Central Hindi Directorate (C.C.),
West Block No.7, R.K.Puram,
New Delhi-110066.
5. Secretary of the Govt. of India,
Department of Personnel & Training,
North Block, New Delhi-110001. Respondents
(By Advocate: Ms. Sumedha Sharma proxy for
Sh. V.S.R.Krishna)

ORDER (ORAL)

By Hon'ble Sh. V.Rajagopala Reddy, Vice Chairman (J)

Heard counsel for the applicant. None appeared for the respondents either on the last date of hearing when the case was taken up for hearing or even today. However, after the arguments of the learned counsel for applicant are completed

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the proxy counsel for respondents requested adjournment in the ground that the counsel for respondents Sh. V.S.R.Krishna was busy in High Court. Since the matter is part heard and no mention was made before the case was taken up for hearing, we proceeded with the case refusing adjournment.

2. The applicant was appointed as Evaluator (Regional Language - Malayalam) on regular basis through U.P.S.C. The next promotion is Assistant Education Officer (Regional Language). According to the Recruitment Rules the post of Assistant Education Officer is required to be filled by promotion from amongst the Evaluators having 3 years regular service in the grade. The applicant was eligible for promotion to the post of Assistant Education Officer in 1981. For one reason or the other, she was not promoted for several years after she acquired eligibility. However, she was promoted on ad hoc basis in December 1990 as Assistant Education Officer (Regional Languages). She made a representation seeking regular promotion by convening the DPC. Consequently, the applicant was promoted on the basis of the recommendations of the DPC, by order dated 3.2.94 w.e.f. 12.12.90 as Assistant Education Officer (Tamil). A corrigendum dated 8.2.94 was issued to the office order dated 3.2.94 whereby the applicant has been redesignated as Assistant Education Officer (Regional Language). Surprisingly, by the impugned order dated 2.5.97 after 3 years, the date of regular promotion of the applicant was directed to be read from 12.12.90 to 7.9.93.

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3. Learned counsel for applicant submits that the impugned order has been issued without any show cause notice. No reasons have also been assigned in the impugned order for changing the date of regular promotion after 3 years.

4. In the counter affidavit it has been stated that by virtue of a clarification issued by DOPT on the basis of a representation made by one Dr. Sh. D.S.Tripathi as Assistant Education Officer after the promotion of the applicant the impugned order has been issued. Notice was not necessary as it was only a change of seniority.

5. We have given careful consideration to the contentions raised by the learned counsel for applicant and the pleadings in the case. The facts are not in controversy. The applicant has been working as Assistant Education Officer w.e.f. 12.12.90, on ad hoc basis. The perusal of the order dated 3.2.94 shows that the applicant had been promoted on the recommendation of the DPC, on regular basis w.e.f. 12.12.90. Hence the applicant acquires rights of seniority from the date of regular promotion for the post of Assistant Education Officer (R.L.). Law is well settled that the seniority cannot be disturbed without hearing the affected employee. The contention that no notice is necessary when the seniority was sought to be disturbed is incorrect. Though the order has been passed in 1994 promoting the applicant on regular basis, infact, the applicant's promotion was on w.e.f. 12.12.90 As the applicant acquired valuable rights of seniority from 12.12.90 this right cannot be disturbed or altered without hearing him. In the circumstances the impugned order has to be quashed.

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6. Respondents are, therefore, directed if they so choose, to proceed only after giving an opportunity to make representation against any action that may be taken for altering ~~his~~ seniority. It should be made clear that we have not expressed any opinion on the merits of this case. The OA is, accordingly, allowed. No costs.

Govindan S. Tampi
GOVINDAN S. TAMPI)
Member (A)

'sd'

V. Rajagopala Reddy
(V. RAJAGOPALA REDDY)
Vice Chairman (J)