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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1911/97

New Delhi this the 28th day of January, 1998.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Dr. Aley Nabi Drug Inspector
Unani, S/o late Sh. Abdul Nabi,
R/o 129, Partap Khand,
Vishwa Karma Nagar,
Delhi-95. Applicant

(through Sh. G.S. Lobana, advocate)

versus

1. Union of India,
through Secretary,
Union Ministry of Health & Family
Welfare, Nirman Bhawan,
New Delhi-11.
2. Chief Secretary,
National Capital Territory of Delhi,
5, Sham Nath Marg,
Delhi-54.
3. The Principal Secretary(M&Ph),
Govt. of National Capital Territory
of Delhi, 5, Sham Nath Road,
Delhi-54. Respondents

(Present - None).

ORDER(ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

The applicant in this original application has prayed for a direction to grant in situ promotion with effect from the due date, namely, 1.7.92 since she is stagnating at the maximum of the scale for the last one year, with consequential benefits. The claim for in situ promotion had already been adjudicated by another incumbent to the same post Dr. S.K. Sharma who is junior to him by OA-1284/90 and this Tribunal had passed

an order on 17.5.95 with the following directions:-

"We have given this matter our careful consideration. Admittedly, the applicant has not received a single promotion during his entire service career ever since 1973 and the Hon'ble Supreme Court has held that in the interest of maintenance of morale, motivation and heightened performance, every government servant should be able to look forward to at least one promotion during the course of his official career. The respondents (Delhi Administration) also very fairly and justly have recognised the genuineness of the applicant's claim for such promotion. While the Home Ministry was made a respondent in the OA, the Health Ministry to whom the Delhi Administration had referred the matter in their letter dated 10.5.95 was not a party to the OA and we apprehend that if the respondent (Delhi Administration) awaits a reply to that reference, this long pending matter will be further delayed, causing avoidable frustration to the applicant. Thus, without feeling any need to review our judgement dated 13.1.1995 and having regard to the totality of the circumstances, we direct that the respondent (Delhi Administration), without waiting for the reply of the Health Ministry, G.O.I., should consider the case of the applicant for grant of in-situ promotion with such consequential benefits admissible under extant rules and instructions, by means of a speaking and reasoned order, and while passing such orders they will keep in view the spirit of DOPT's O.M. dated 13.9.91 as well as the ratio of Hon'ble Supreme Court's orders dated 15.11.89 in CWP No.1018/89 Dr.(Ms) O.Z.Hussain Vs. UOI."

Since the respondents did not comply with the said order, the said Dr. S.K. Sharma had approached this Tribunal by Contempt of Court proceedings vide CP No. 200/95 and this Tribunal by an order dated 16.5.95 gave the respondents another opportunity to pass appropriate orders within a period of two months.

Accordingly, the respondents had passed an order on 23.8.96 in favour of Dr. S.K. Sharma to the following effect:-

"In pursuance of Hon'ble CAT's order dt. 16.5.96 in CCP No.200/95 in RA No.37/95 and OA No.1284/90, the Hon'ble Lt. Governor, Delhi is pleased to grant Sh. S.K. Sharma regular incumbent and holder of the post of Drug Inspector (ISM) working in the pay-scale of Rs.2000-3500/- in the Drugs Control Department in situ/personal promotion.

In the event of grant of in situ/personal promotion Sh. S.K. Sharma is appointed in the pay-scale of Rs.3000-4500/- + usual allowances thereon with effect from 1.5.92. While granting in situ/personal promotion to the officer, spirit of DOPT's OM No. 10(1)/E/III/88 dt. 13.9.91 as well as ratio of Hon'ble Supreme Court Order dt. 15.11.89 in CWP No.1018/89, Dr. (Ms) O.Z. Hussain Vs. U.O.I. is kept in view."

In the circumstances, the said Dr. S.K. Sharma being junior to the applicant, the applicant is also claiming the same relief, namely, in situ promotion in the scale of Rs.3000-4500/-.

After notice the departmental representative appeared on 6.11.97 and again on 28.11.97 and sought some time to file the reply and thereafter on subsequent three occasions, none appeared on behalf of the respondents and no reply has been filed on their behalf. In the circumstances, we were left with no option but to look into the pleadings available so far on the paperbook and decide the matter ourselves.

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We have pursued the pleadings and heard the learned counsel for the applicant. On the basis of our own order passed on 16.1.98 wherein it was stated that in case no reply is forthcoming before the next date of hearing, this matter will be disposed of today. Even today none appears and we have perused the records and we find that there is merit in the submissions made on behalf of the applicant. In the circumstances, we direct that the respondents may pass similar order passed by themselves in the case of Dr. S.K. Sharma on 23.8.96 granting in situ promotion to the applicant in the scale of Rs. 3000-4500/- and alongwith all the benefits granted to the said Dr. S.K. Sharma by the said order. In addition, the respondents are directed to give effect to the said order with effect from 1.7.92 that being the due date in the case of the applicant herein while the due date in the case of Dr. S.K. Sharma was 1.5.92. The applicant will also be entitled to interest w.e.f. 1.7.92 at the rate of 9% till the date of payment. With this, this O.A. is disposed of. No costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

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