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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 791/1997

New Delhi, this 3rd day of June, 1997

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

Smt. V.N. Meenakshi
w/o late Shri R.S. Iyer
941, Baba Karak Singh Marg
New Delhi

.. Applicant

(By Advocate Shri A.K. Behera)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi

2. Director General
Border Security Force
CGO Complex, Lodi Road
New Delhi

3. Shri Chitramani
Asstt. Director (Accounts)
PAD, BSF,
Pushpa Bhavan, New Delhi

.. Respondents

(Through Shri R.P. Aggarwal with Shri Mohd. Arif,
Advocates)

ORDER(oral)

Hon'ble Dr. Jose P. Verghese

The main relief sought in this OA is that the respondents are not appointing the applicant as Assistant Director(Accounts) even though she is also one of the incumbents in accordance with the Rules. It was also sought in this OA by way of relief that the order dated 1.10.96 by which Respondent No.3 has been given re-employment, may be quashed.

2. The matter came up today for a possible final hearing.

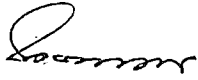
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3. Learned counsel for the applicant submits that the respondents have finalised the seniority list by order dated 26.9.96. The said order is at Annexure A-1. A perusal of the said order shows that the same is not in effect a final seniority list in accordance with the rules. Respondents also brought before us a communication from the Union Public Service Commission stating that the said order does not amount to be a seniority list. In view of this fact, the only order this court can now pass is that the respondents shall take immediate steps to issue a final seniority list, inviting objections from the incumbents of the gradation list, and deal with the objections of the parties concerned and issue a final seniority list in accordance with the rules within the shortest possible time. In the meantime, it was urged on behalf of the respondents that since seniority position is in dispute, they are not in a position to fill up the post from amongst the incumbents appearing in the seniority list. It is under these circumstances that the method of re-employment or transfer on deputation is resorted to.

4. Learned counsel for the applicant objects to such an order for the reason that there are persons who are eligible in the Department and are available for appointment, in accordance with the recruitment rules, and re-employment or transfer on deputation would not be in good taste. Finding substance in the contention of the learned counsel for applicant, we feel that the respondents should not have resorted to re-employment or transfer on deputation contrary to the R/Rules. In the

interest of justice, respondents are given liberty to appoint any eligible available candidate from amongst the gradation list on ad hoc basis, that too in accordance with the R/Rules, on the basis of length of service. It is further clarified that appointment shall be made as quickly as possible. In the meantime, Respondent No.3, who is present in the court, shall not be disturbed till appointment in accordance with the above order is made and no further extension of appointment of Respondent No.3 shall be made beyond the date the ad hoc appointee takes over. It is highly recommended that the procedure for ad hoc appointment shall be completed within two months.

5. The OA is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member(A)


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

/gtv/