

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.592/94

New Delhi, this the 5th day of September 1994.

HON'BLE SHRI J.P.SHARMA MEMBER(J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

Dr.(Ms.) Meena Dube
D/O late Shri JN Dube,
Senior Hindi Officer
Govt. of N.C.T. of Delhi,
Delhi.

..Applicant

(By Advocate Shri PP Khurana)

Vs.

1. Lt.Governor of Delhi,through:
The Chief Secretary,
Govt. of NCT of Delhi,
5, Shamnath marg, Delhi.

2. The Secretary,
(Admn. & services)
Govt. of NCT of Delhi,
5 Shamnath Marg, Delhi.

3. The Secretary (Language)
Govt. of NCT of Delhi
Delhi.

4. Smt.Sneh Lata
w/o Shri PC Agnihotri,
r/o AM/27, Shalimar Bagh,
Delhi.

..Respondents

(By Advocate Shri GR Agnihotri R-4)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

The applicant joined service with respondents as Senior Hindi Officer in the year 1984. The next promotion as per extant avenues is to the post of Deputy Director (Language) on completion of 8 years of regular service as Senior Hindi Officer. There was only one post of Deputy Director (Languages) which was in operation during 1981 to November 1987. This post of Deputy Director (Languages) was created for the purpose of strengthening and establishment of three academies, namely, Urdu, Hindi and Punjabi under the Directorate of Education, Delhi Administration. The post was sanctioned with effect from 2-2-80

for the first time and the post of Assistant Director (Hindi), a permanent post, was kept in abeyance in lieu of the post of Deputy Director (Language). Though the creation was initially for a period of one year, the sanction was extended from time to time and it lasted upto the end of February, 1988. This post has not been filled up after this date. (13)

2. Subsequently for a short period during April 1994 the post of Assistant Director (Hindi) was filled by promoting respondent No.4 who has since retired.

3. But for the operation of the post of Assistant Director (Hindi) for the short period as above neither the post of Deputy Director (Language) nor the post of Assistant Director (Hindi) has been operated after November 1987 and upto the present time. This U.A. has been filed with a prayer for reviving the post of Deputy Director and in the alternative of such revival not taking place, the post of Assistant Director is to be operated considering the post of Senior Hindi Officer as the feeder post for the post of Assistant Director.

4. It may be relevant to briefly touch upon the background of the case. The post of Senior Hindi Officer is in the scale of Rs.2000-3500 and the only promotion available to the incumbent of this post is to the post of Deputy Director (Language) in the scale of Rs.3000-4500. The post of Assistant Director is in the scale of Rs.2200-4000 and the current avenues do not provide for promotion of Senior Hindi Officers who are in a lower scale to the post of Assistant Director. Only incumbents of the post of Hindi Officers who are in the scale of Rs.2000-3200 are eligible to be considered for promotion as Assistant Director.

5. One Dr. ND Paliwal was functioning as Assistant Director (Hindi) for a number of years and was posted as Deputy Director (Language) in the year 1981 by creating the post of Deputy Director and simultaneously keeping in abeyance the post of Assistant Director (Hindi) which was occupied by him at that point of time.. This arrangement was continued till 30-11-87 when Dr. ND Paliwal retired on superannuation. Soon after this the two Hindi Officers staked their claims for promotion as Assistant Director (Hindi). Respondent No.4 was the applicant in OA No.503/88 wherein she prayed for the revival of the post of Assistant Director and for her promotion. This O.A. was disposed of with the following orders on 17-8-1993:-

"Be that as it may, now that the Respondents have decided that the post is being revived and action being taken to fill up the same from among the eligible candidates in accordance with the recruitment rules and that the petitioner will be considered for the said post, the cause of action for the petitioner no longer survives. Since the petitioner has been in the direct line of promotion for the post of Assistant Director (Language) we direct the Respondents to consider her case immediately for promotion on ad hoc basis subject to her otherwise being eligible and suitable. In case the regular promotion is likely to take time in view of the fact that she is left with only about a service of one year more. In case the petitioner is found fit for regular promotion to the said post, she shall be further entitled to notional fixation in the relevant scale of pay from the date the vacancy arose from 1-12-1987 without any financial benefit till the date she is promoted to the post of Assistant Director. This would mean that the petitioner shall be deemed to have been promoted to the post of Assistant Director notionally from the date the vacancy arose thereby giving her the benefit of grant of increments without any payment of arrears till the date she is promoted as Assistant Director and her pay fixed accordingly."

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Subsequently the petitioner of D.A.No.503/88 was promoted as Assistant Director in April, 1994 and has since retired.

6. The learned counsel for the applicant in this U.A. advanced a number of grounds. It was argued that the post of Deputy Director (Language) was created for the purpose of coordinating the work of the three academies, namely, Urdu, Hindi and Punjabi. These academies are still functioning and hence the post has to remain. It was also mentioned that it has been the consistent stand of the respondents that the post of Assistant Director was given up and post of Senior Hindi Officer and Deputy Director (Language) ~~was~~ created. There has been no development to reverse the process. At some stage there was a proposal to fill up the post of Deputy Director (Language) and in the indent placed on the Union Public Service Commission (UPSC) in the year 1989 this post was shown as a permanent post. We do not propose to decide on whether the post of Deputy Director (Language) should be revived or whether this post should be deemed to be permanent. This is a matter well within the competent of the respondents and it is for them to decide as to which post should be operated and in which grade taking into account the administrative requirements.

7. It was then argued that if the post of Deputy Director(Language) is taken away, the applicant ^{who} was recruited as Senior Hindi Officer, ~~he~~ is left with no avenue of promotion. At least for the incumbents of posts of Hindi Officers a provision has been made from 1986 for promotion in the DANICS cadre and this provision has been made use of not only in the case of respondent No.4 but ~~also~~ in a few other cases. Thus for the sake of providing avenue of promotion for Hindi Officers the post of

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Assistant Director (Hindi) need not be operated and there is a stronger case for operating the post of Deputy Director (Language) to facilitate the promotion of the applicant who is working as Senior Hindi Officer. If for any reason the post of Deputy Director cannot be operated the applicant should be provided with avenue of promotion as Assistant Director also. In fact at some stage, admittedly, even the UPSC had suggested the opening of the promotional avenue for Senior Hindi Officers as Assistant Directors.

8. In the counter reply it has been mentioned that the facility of promotion for Hindi Officers in DANICS cadre is being taken away and proposals to this effect are under serious consideration. Hence the non-operation of the post of Assistant Director (Hindi) would be to the detriment of Hindi Officers. Another argument advanced by the respondents was that the posts of Senior Hindi Officers are operated by the Education Department of Government of N.C.T of Delhi and the posts of Hindi Officer and Assistant Director (Hindi) are operated by General Administration Department having their own promotional avenues and seniority list. We are not impressed by this argument since admittedly the post of Deputy Director (Language) was under the control of Education Department and the Assistant Director of the General Administration Department was found eligible for promotion to the post of Deputy Director.

9. After hearing the ld. counsel for the applicant and after going through the records of the case we find that a situation has developed by which the applicant in this O.A. is faced with the prospect of no promotional avenues. It is not a desirable situation. Although we have held that it is within the competence of the respondents to either operate the post of Deputy Director or Assistant Director depending upon

the administrative requirements, the applicant's case for avenue of promotion has to be seriously considered. If the post of Deputy Director is still functional, the applicant should be given due consideration. On the other hand, if the post of Deputy Director is not functional now, it would be equi-table if the applicant is considered for the post of Assistant Director (Hindi) by revising the Recruitment Rules. Accordingly we direct the despondents to consider suitable amendment to the Recruitment Rules for the post of Assistant Director (Hindi). Decision taken in this regard should be conveyed to the applicant within six months from the date of receipt of this order. Till a final decision is taken and the applicant advised of the result of such decision the post of Assistant Director (Hindi) should not be filled on a regular basis. No costs.

P. J. Thiruvengadam
(P.T.THIRUVENGADAM)
Member(A)
'M'

J.P. Sharma
(J.P.SHARMA)
Member(J)