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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 632 of 1994

New Delhi this the 4th day of September, 1995.

HON'BLE SHRI N. V. KRISHNAN, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Mrs. Urmil Rani,
W/O Shri Prem Prakash,
R/O B-208 Prashant Vihar,
Delhi 110085.

... Applicant

(None present)

-versus-

1. Union of India through the
Secretary, Ministry of
Home Affairs, North Block,
New Delhi 110011.
2. National Institute of Criminology
& Forensic Sciences,
Ministry of Home Affairs
through its Administrative Officer,
Sector 3, Outer Ring Road,
Rohini, Delhi 110085.
3. Shri Kamal Kishore,
Stenographer Grade 'C',
National Institute of Criminology
& Forensic Sciences,
Ministry of Home Affairs,
Sector 3, Outer Ring Road,
Rohini, Delhi 110085.

... Respondents

(None present)

O R D E R (ORAL)

Shri N. V. Krishnan, VC(A) -

The applicant claims that she is senior to the third respondent as Stenographer Grade 'D', though in the seniority list of Stenographers Grade 'D' in the establishment of the second respondent, namely, National Institute of Criminology & Forensic Sciences, the applicant has been shown junior to the third respondent. Perhaps on that basis an order was issued on 8.3.1994 by the second respondent reverting the applicant from the post of Stenographer Grade-II (which is a later designation for the post of Stenographer Grade 'C') to the post of Stenographer Grade-III, that is, formerly Stenographer Grade 'D', with effect from 1.2.1994 by order

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dated 7/8/3.1994, which was filed along with an affidavit by the applicant when the O.A. came up for admission. The important prayers in the O.A. are as follows :-

"(1) An order/direction by this Hon'ble Tribunal quashing/setting aside/revoking/modifying the impugned order dated 24/8/93 showing the applicant junior to the Respondent/3 in the grade of Stenographer/Gr. III Grade/D of the cadre;

(2) An order/direction by this Hon'ble Tribunal to the Respondent/2 to treat the applicant as senior to the Respondent/3 in the Grade-C Stenographer as her appointment is on 2/6/92 and the appointment of the respondent/3 is dated 12/11/93, with all the consequential benefits in the matter of further promotion etc.

...."

2. A reply has been filed on behalf of all the three respondents, in which these claims are contested.

3. As none appeared for either party, we have perused the pleadings. The applicant was in the clerical cadre of the second respondent. She knew stenography and, therefore, she was sent on deputation as a Stenographer. Her services were also utilized as a Stenographer by the second respondent. The applicant, however, submitted an application on 10.1.1991, Annexure/EE, for change of cadre which reads as follows :-

"Subject : Change of cadre

Sir,

I was promoted as UDC w.e.f. 14/2/1984 and worked as UDC upto 15/7/84. Thereafter I am performing the duties of bilingual Stenographer. I had been working as Stenographer Grade 'C' in the Ministry of Law and Justice, Law Commission w.e.f. 27/12/88. Thus I have worked of a Stenographer more than 7 years in different organisations including I.C.F.S.

In view of the above I request you to kindly change my cadre from UDC to Stenographer after protecting my present pay...."

4. Respondents have stated in their reply to para 1 of the

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O.A. that in view of this request, the applicant was brought on Stenographers' cadre in Grade-III (corresponding to the earlier Stenographer Grade 'D'). She was assigned seniority from 1.3.1991. There is no dispute about the fact that the respondent No.3 was already in the Stenographers' cadre and started working as Grade 'D' Stenographer, as it then was, from 18.5.1987. Hence, the respondent No.3 has been placed above the applicant in the seniority list of Grade 'D' Stenographers by the impugned order dated 24.8.1993. In so far as this placement is concerned, we are of the view that the applicant can have no grievance because until she became a member of the Stenographers cadre, her lien was only in the clerical cadre. The fact that she had worked as Stenographer in the establishment of respondent No.2 and outside on deputation, will not give her any benefit in the matter of seniority as Stenographer. Therefore, we do not find any merit in prayer No.1.

5. In so far as prayer No.2 is concerned, the pleadings do not indicate that any seniority list of Stenographers Grade 'C' has been published by the second respondent. That prayer is, therefore, premature.

6. However, in order to give proper directions, it is necessary to note certain facts.

7. As the applicant was brought on the Stenographers cadre as a Grade-III Stenographer with seniority from 1.3.1991, she was promoted as a Grade 'C' Stenographer by the order dated 2.6.1992, Annexure/FF. This reads as follows :-

"ORDER"

Consequent upon having been approved by the duly constituted Departmental Promotion Committee, Smt. Urmil Rani, Stenographer Grade 'D' of ~~N~~ational Institute of Criminology & Forensic Sciences is promoted to the post of Stenographer Grade 'C' in the pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/- w.e.f. the forenoon of 2nd June, 1992 until further orders.

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2. On promotion to the post of Stenographer Grade 'C', the pay of Smt. Urmil Rani will be fixed as per rules in the pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/-.

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8. Admittedly, the third respondent has been given such promotion only from 12.11.1993 by the Annexure/JJ. On the face of it, it would, therefore, appear that the applicant is senior to the third respondent as a Grade 'C' Stenographer though no seniority list has yet been published.

9. The respondents have stated that the promotion given to the applicant by the Annexure/FF order dated 2.6.1992 was at a time when the third respondent who is senior to the applicant as a Grade 'D' Stenographer, was away on deputation and, therefore, the promotion of the applicant to the post of Grade 'C' Stenographer is fortuitous. This issue becomes relevant in the context of the order of reversion of the applicant dated 8.3.1994. That order reads as follows :-

"OFFICE ORDER

Consequent upon resumption of duties of Stenographer Grade II by Shri Kailash Chand, a regular Stenographer Grade II of National Institute of Criminology & Forensic Science with effect from 1.2.1994, at the National Institute of Criminology & Forensic Science (MHA), one of the Stenographer Grade II, promoted in the leave vacancy caused due to regular incumbent on deputation elsewhere, namely Smt. Urmil Rani, a Stenographer Grade II is reverted to the post of Stenographer Grade III with effect from 1st February, 1994.

2. This issues with the approval of the Director, National Institute of Criminology & Forensic Science (MHA), Delhi.

..."

10. On 25.3.1994, when the matter came up for admission, this Tribunal directed that the order of reversion dated 8.3.1994 would remain stayed. It was, however, made clear that this would not prevent the respondents "from taking back Shri Kailash Chand in Grade-II." This interim order was continued from time to time until, on 27.5.1994, it was ordered to continue until further orders.

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11. In the meanwhile, the respondents filed their reply on 9.5.1994. In regard to this interim order, the respondents have stated as follows :-

"As regards ex-parte interim order dated 25.3.94 passed by this Hon'ble Tribunal, it is most respectfully submitted that these orders were received in the answering respondent's office on 28.3.94. By this time, the reversion order of the applicant had already been issued on 8.3.94 by NICFS. This Hon'ble Tribunal under the said orders were pleased to grant stay of the reversion order, but at the same time directed that 'this order will not prevent the respondents from taking back Shri Kailash Chand in Grade II'. It is submitted in this connection that the applicant had to be reverted to give place to Shri Kailash Chand, a regular Grade II Stenographer taken back on his repatriation from deputation. Now there is no other vacant post of Stenographer Grade II against which the applicant could be accommodated. Of the three sanctioned posts of Stenographer Grade II, two are at present held by two regular Grade II Stenographers and one by Respondent No.3, senior to the applicant. In this situation and under the clear directions of this Hon'ble Tribunal that their orders will not prevent the Respondents from taking back Shri Kailash Chand in Grade II, the stay orders could not be complied with."

12. Thereafter, the respondents filed M.A. No. 3448/94 on 22.9.1994 seeking clarification of the aforesaid interim order along with M.A. No. 3450/94 for condoning the delay in seeking such clarification. This M.A. came up for consideration on 10.11.1994 when the M.A. seeking clarification was dismissed.

13. We have carefully considered these submissions for the disposal of the second prayer. As already recorded by us, it is premature, because it is for the respondents to first publish the seniority list of Stenographers Grade-II (Grade 'C' formerly) in order to find out who should be reverted when Kailash Chand, a regular Grade-II Stenographer resumed duties on 1.2.1994, that is, whether respondent No.3 should have been reverted because he started working as Grade-II Stenographer only from 12.11.1993, i.e., later than the applicant, or whether the applicant should be reverted on the ground that in the lower cadre, the applicant is junior to

respondent No.3. That, however, leaves the question as to what should be done in the interregnum. The interim order passed by the Tribunal, which has been continued till further orders is still in operation. We are of the view that it should now be continued until the second respondent publishes a seniority list of Grade-II Stenographers as on 1.1.1994, with particular reference to the seniority of the applicant and respondent No.3 in that grade and order accordingly. We further make it clear that the second respondent is free, after such publication, to revert, if still necessary, the juniomost Stenographer. If that happens to be the applicant, the interim order will lapse on the date when she is reverted. Otherwise, it will continue and remain final and absolute. We make it clear that it would be open to the applicant to challenge the seniority list in appropriate proceedings, if she has a grievance against it.

14. The O.A. is disposed of with the above directions.

There shall be no order as to costs.



(Lakshmi Swaminathan)
Member (J)


4.9.95

(N. V. Krishnan)
Vice Chairman (A)

/as/