

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A. 934 of 1994

Dated New Delhi, this the 10th day of May 1994

Hon'ble Shri J. P. Sharma, Member(J)
Hon'ble Shri B. K. Singh, Member(A)

Mrs Tripta Sethi
Superintendent(Rtd)
Directorate of Social Welfare
Govt. of Delhi, Delhi
R/o C-36 Soami Nagar
NEW DELHI-110 017

... Applicant

By Advocate: Shri M.R. Bhardwaj

VERSUS

1. Lt. Governor of Delhi
Raj Niwas
DELHI
2. Chief Secretary
Govt. of National Capital
Territory of Delhi
Old Secretariat
DELHI
3. Secretary-cum-Director
Dept. of Social Welfare
Govt. of National Capital
Territory of Delhi
Kasturba Gandhi Marg
Old I.T.I. Building
NEW DELHI
4. Km. Prabha Mathur
Social Officer
Govt. of Delhi
Directorate of Social Welfare
Kasturba Gandhi Marg
NEW DELHI

... Respondents

By Advocate: None present.

O R D E R
(Oral)

Shri J. P. Sharma, M(J)

The applicant earlier filed OA.1212/88 being aggrieved by the rejection of her representation for revision/upgradation of the post of Assistant Supervisor, Work Centre for Women(ASWCW). At that time the applicant was holding the post of Assistant Superintendent/Superintendent. These posts were

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included under the Directorate of Social Welfare.

There were eight such Work Centres including that of the applicant under Delhi Administration. These centres were managed by Assistant Superintendent/ Superintendent. The OA was decided vide order dated 12.12.90 and the respondents were directed to pay to the applicant the difference in pay and allowances actually drawn in the scale of Rs.550-900 and pay the scale of pay of Rs.650-1200. The arrears were also directed to be paid to the applicant along with interest at the rate ten per cent per annum from 4.10.92 till the date of actual payment. Before this judgement was passed, the applicant had superannuated on 30.9.90. The applicant preferred a representation on 6.7.93 regarding grant of retrospective promotion to the higher post of Senior Superintendent. The same has been rejected by the respondents vide impugned order of December, 1993.

2. We heard the learned counsel for the applicant at great length. His contention that the applicant was making representation after the judgement in OA.1212/88 and that the applicant should also be given benefit and should have been considered for promotion to Group 'A' post from the date junior to her Km. Prabha Mathur was promoted w.e.f. 11.4.88. In the present application, the applicant has

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prayed that she should be considered for promotion retrospectively and she should also be given difference of pay scale of the Group 'A' post if she is found suitable and promoted to that post, for the period from 4.11.88 till the date of her superannuation i.e., 30.9.90.

3. We have given a careful consideration to the contention raised by the learned counsel and also to the fact that the applicant has made certain representations after the decision of the CA.1212/88 vide order dated 12.12.90.

4. In fact, the principles of res-judicata as well as Sec 10 of CPC are not applicable before the Tribunal in letter and spirit. However, the principles are to be applied in an analogous manner otherwise there will be no end to litigation and if one grievance of that kind is remedied then years after the other grievance for which the cause of action had already arisen is reagitated after getting the benefit of the claim in the application filed earlier, it would set a wrong precedent if a judicial review is given now.

5. The contention of the learned counsel is that at that time the applicant only prayed for grant of grade of Rs.650-1200 but the fact remains that Km. Prabha Mathur was promoted on 11.4.1980. The

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applicant should have claimed that relief in earlier OA. The principle of constructive res-judicata applies and this application for that relief which could have been claimed in earlier OA, cannot be now considered.

6. In view of the above fact we find that the present application is not maintainable.

7. Still on the point of limitation, the applicant has already retired in September, 1990 and she has come in May, 1994. In any case she had made representation in 1990 as contended by the learned counsel for the applicant, then she should have come before the Tribunal within a period of one-and-half-years as laid down under Section 21 of the A.T. Act, 1985. The application, therefore, is also barred by limitation.

8. In view of the above facts and circumstances of the case, we find no prima facie case for admission of this case and it is dismissed accordingly.

(B. Singh)
Member(A)

(J. P. Sharma)
Member(J)

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