

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1577/2000

New Delhi, this the 6th December, 2000

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Mrs. Indrani Kumari,
W/o Shri Hemant Kumar,
R/o Qtr No 5, Type-II,
P&T Colony, Pusa Road,
Behind Telephone Exchange,
Karol Bagh,
New Delhi : 110005

Working as Lab. Technician,
ESI Hospital,
Basai Darapur,
New Delhi:1100015 Applicant
(By Advocate : Shri M.K. Gupta)

VERSUS

- 1.. Employees State Insurance Corporation
through its Director General,
Panchdeep Bhawan, Kotla Marg,
New Delhi - 110001
- 2.. The Medical Superintendent,
E.S.I. Hospital,
Basai Dara Pur, Ring Road,
New Delhi:110015 Respondents
(By Advocate : Shri G.R. Nayar)

O R D E R (ORAL)

Shri Justice Ashok Agarwal

By the present OA the applicant seeks to impugn the order of 20th December, 1999 (Annexure-A-1) whereby she has been reverted from the post of Senior Lab. Technician to that of Lab. Technician. Short facts leading to the filing of this application are as follows..

- 2.. The applicant joined the office of the Employees State Insurance Corporation (Respondent No.1 herein) on 20th July, 1990 as a Lab Technician. By an order passed on 8th August, 1994 six additional posts of Senior Lab. Technicians were created, taking the total strength to

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12. Several vacancies in the aforesaid post of Senior Lab Technician have fallen vacant during the years 1994 - 1999. A DPC was convened on 15th December, 1999 when promotions to all the aforesaid 12 vacant posts were considered at one go and regular promotions were ordered. A copy of the order of promotion of 20th December, 1999 is annexed at Annexure A-7. The applicant did not find a place in the aforesaid order of promotion. As a consequence, by another impugned order passed on the very same day (Annexure A-1). She has been reverted back from the post of Sr. Lab Technician which she held on adhoc basis to her substantive post of Lab. Technician. The ground taken by the applicant is that the respondents were not justified in filling all the vacancies which had arisen in different years at one go by holding one DPC. According to her, different DPCs should have been held for vacancies arising in different years and promotions should have been directed on that basis. For the aforesaid proposition, reliance has been placed on instructions contained in Para 6.4.1 of OM dated 10th April, 1989, which inter alia stipulates as under:

"...PREPARATION OF YEAR-WISE PANELS BY DPC WHERE THEY HAVE NOT MET FOR A NUMBER OF YEARS

6.4.1 Where for reasons beyond control, the DPC could not be held in an year (s), evens though the vacancies arose during that year (or years), the first DPC that meets thereafter should follow the following procedures:-

(i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.



(ii) Considers in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.

(iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on."

3. The applicant belongs to Scheduled Caste. As far as the DPC which was held on 15th December, 1992 is concerned, only one post was considered as reserved for Scheduled Caste. If the aforesaid provision contained in the OM of 10th April, 1989 had been scrupulously followed, there would have been three posts reserved for Scheduled Caste for the period prior to July, 1997 when the post based roster came into force. Prospects of the applicant being considered fit for regular promotion would then have been brighter.

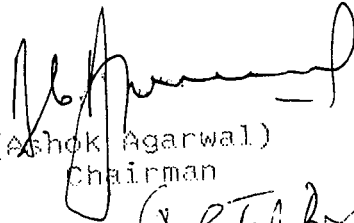
4. We have heard Shri M.K. Gupta appearing on behalf of the applicant and Shri G.R. Nayar on behalf of the respondents.

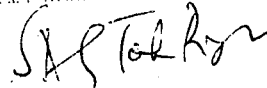
5. We have no hesitation in saying that the applicant's claim in the present OA is fully justified. In the circumstances we dispose of the present OA with a direction to the respondents to hold a review DPC and consider candidates for promotion for vacancies which have arisen in each year. In case the applicant is found fit and promoted to the post of Senior Lab. Technician on regular basis, the impugned order at Annexure A-1 will stand quashed and applicant will become entitled to be given her due seniority as also protection of her pay. Similarly, after the DPC has carried out the process of promotions as directed, the

order of promotion at Annexure A-7 will stand modified

(4)

in the light of the promotions to be ordered. The
aforesaid directions will be carried out expeditiously
and in any event within a period of three months from
the date of service of a copy of this Order. There will
be no order as to costs.


(Ashok Agarwal)
Chairman


(S.A.T. Rizvi)
Member (A)

(pkr)