

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1159/1989

NEW DELHI, this 25th day of April, 1994

Shri N.V.Krishnan, Hon'ble VC(A)
Shri C.J. Roy, Hon'ble Member(J)

Mrs. Naheed Siddiqui
w/o Shri A.A. Siddiqui
Asstt. Teacher
Oak Grove School, Jharipani
Mussorie (UP) .. Applicant
(By Shri P.L.Mimroth, Advocate)
Versus

1. The Secretary, Railway Board
Rail Bhawan, New Delhi
2. The General Manager
Northern Railway
Baroda House, New Delhi
3. Chief Personnel Officer
Northern Railway
Baroda House, New Delhi
4. Shri R.K. Kitchlu
Principal
Oak Grove School
Jharipani, Mussoorie Hills
Dt. Dehradun (UP)
5. Miss Shashi Sharma
Headmaster
Oak Grove Girls School
Jharipani, Mussoorie Hills
Dt. Dehradun (UP) .. Respondents

By Shri P.S. Mahendru, Advocate for R-1 to R-4
By Shri B.B. Srivastava, Advocate for R-5

O R D E R (Oral)

(By Shri N.V.Krishnan, Hon'ble Vice-Chairman(A))

The applicant is aggrieved by the ad hoc promotion given to 5th Respondent as Headmistress by the impugned Annexure A-1 order dated 17.2.1989. By that order, the 5th Respondent was promoted as Headmistress of Oak Grove School, Jharipani, Mussoorie. The said post was initially held by Ms. David who retired on 30.4.86 in the senior scale of Headmistress. This was down graded temporarily and the 5th respondent was promoted on ad hoc basis to hold this post. The note below the impugned order makes it clear that the ad hoc promotion will not confer on her a claim for promotion to the next higher grade.

1A) The applicant states that this is only an ad hoc promotion and it should have been made only on the basis of seniority. It is stated that the applicant was the senior most teacher and her name has been ignored by the Deptl. Promotion Committee and therefore the promotion should have been considered on seniority basis. The applicant has pointed out that the Annexure A-2 guidelines of the Railway Board dated 11.1.88 makes it clear that appointment to the posts of Principals, Vice-Principals and Headmaster is made in all schools on the basis of merit and seniority is in substance one of the elements in the assessment of merit. In other words, the seniority of the applicant had been ignored and that the applicant should have been given ad hoc promotion. The applicant also states that her teaching performance has been quite good and therefore she should not have been ignored.

2. In the circumstances, she has prayed for a direction to the Respondents No.1 to 4 to quash the ad hoc promotion of Respondent No.5 and to promote the applicant with all consequential benefits.

3. Respondents No.1 to 4 (Government) and Respondent No.5 have filed their replies separately. In their reply, the Government have ^{pointed} ~~pointed~~ out as follows:

"...As per the guidelines laid down by the Railway Board an employee is required to secure 15 points from the last 5 years ACRs for the purpose of ad hoc promotion to Grade B post. It is submitted that the DPC met on 13.2.89 to consider ad hoc appointment as Headmistress (Class II) to fill up existing vacancy at Oak Grove School, Jharipani. The applicant was also considered along with other eligible candidates but she could not be recommended for ad hoc appointment as Headmistress (Class II) as she was not fulfilling the prescribed guidelines laid down for such promotion. It is submitted that the promotions in the school are made as per the guidelines issued by the Railway Board and not guided by any conditions laid down by CBSE"

4. It is further stated by the Government that the following adverse remarks were communicated to the applicant on 19.6.1986:

"In spite of previous warnings, her results were poor in quality. Not a single student could secure distinction in her subject in CBSE examination of Class X and XII. She is not interested in staying at Oak Grove School, Jhariapani and has applied for her transfer to Bhopal. Lacks dedication. Not yet fit for the post of Headmistress"

5. The 5th Respondent in her reply has raised a preliminary objection that the OA is not maintainable as the applicant has not resorted to any alternative arrangement. The 5th respondent contends that the post of Headmistress is required to be filled through the UPSC and according to Respondent No.4 eligible staff for promotion as Headmistress was not available and it was down graded. It is also pointed that Annexure 2 Memorandum states that appointment to the posts of Principals, Vice-Principals and Headmistress are being made in all the schools on the basis of merit. No doubt seniority is ~~xxxxxx~~ one of the elements but ~~merit~~ ~~merit~~ is to be assessed independently and based on that basis the 5th respondent has been found suitable for ad hoc promotion.

6. Therefore, the respondents contend that this application has no merit and is liable to be rejected.

7. Rejoinder has been filed by the applicant reasserting the earlier averments.

8. We have heard Shri R.N. Gupta, proxy counsel for Shri P.L. Miroth, counsel for the applicant and Shri B.B. Srivastava, counsel for Respondent No.5. Counsel for Respondents 1 to 4 was not present though called twice.

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9. Obviously Annexure A is an order of ad hoc promotion of the 5th respondent until regular selection is made. This has been made by the Government in that it states that till a regular incumbent was posted to the post of Headmistress, the ad hoc arrangement has been made by down grading the post to Class II.

10. The learned counsel for the applicant has not been able to produce any instructions or orders to hold that the ad hoc promotion will have to be made only on seniority. On the contrary, the respondents (Government) have stated in their reply that there are guidelines of the Railway Board which require an employee to secure 15 points from the last five years' ACRs for the purpose of ad hoc promotion to Grade B post. Therefore it would appear that the ad hoc promotion is not merely on the basis of seniority ^{but} subject to merit. It is stated in reply to 4.VIII that the Respondent No.5 is junior to the applicant as per the seniority list. However the promotion is made to the post of Headmistress on seniority-cum-merit. If the promotion is to be based entirely on seniority, the applicant would have got the promotion. In terms of Railway Board's guidelines, the promotion is made on seniority-cum-merit and for this purpose, merit is judged by the ~~appraisal~~ of the character rolls for five years. According to that guidelines, 15 points should have been secured so that a senior person is not superseded by a junior person.

11. The applicant has filed his rejoinder after receiving the Government's reply but in regard to the above averments, a mere denial has been made stating

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that the averments made by the Government in regard to securing 15 points is not correct. The applicant should have insisted on the production of guidelines referred to by the Government, which might have then been produced.

12. As it is, we have necessarily to go by the averments of the Government that for the purpose of assessing merits for ad hoc promotion, 15 points are awarded for 5 CRs and that has not been converted effectively. It is seen that the case of all the eligible employees including the applicant and the 5th respondent were considered by the DPC and the DPC has not adjudged the applicant to be eligible for ad hoc promotion on seniority-cum-merit, but it preferred to promote 5th respondent. No reasonable ground has been advanced before us by the applicant to challenge this decision. We are, therefore, of the view that the ad hoc promotion granted to the 5th respondent by Annexure A-1 order can not be disturbed.

In the circumstances, we do not find any merit in the case and accordingly the OA is dismissed. No. costs.

1/25/84
(C.J. Roy)

Member (J)

25.4.84
(N.V.Krishnan)
Vice-Chairman (A)

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