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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

Dated the 5th November, 1993.

O.A.No.1201 of 1989.

Hon'ble Mr.J.P.Sharma, Member (J)

Hon'ble Mr.S.R.A\_dige, Member (A)

Mrs. Vinita Verma, aged 36 - years  
w/o Mr.S.B. Verma , Lady Lecturer(Architecture),  
Women's Polytechnic,  
Maharani B-agh  
New Delhi-110 065. ....Applicant.

Versus

- 1.Union of India through  
the Secretary,  
Ministry of Human Resources Development,  
Shastri Bhawan,  
New Delhi.
  - 2.Lt.Governor(Administrator), Delhi ,  
Raj Niwas, Delhi.
  - 3.Chairman,  
Union Public Service Commission ,  
Dholpur House, Shahjahan Road ,  
New Delhi-110 011.
  - 4.Chief Secretary,  
Delhi Administration ,  
No.5, Sham Nath Marg ,  
Delhi -1 10 054.
  - 5.Secretary (Services),  
Delhi Administration,  
No.5, Sham Nath Marg,  
Delhi.
  6. Director,  
Technical Education ,  
Delhi Administration,  
Directorate of Technical  
Education,  
Rouse Avenue,  
New Delhi.
  7. Principal,  
Women's Polytechnic,,  
Maharani B agh,  
New Delhi.
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Mrs. Sushma Mandhar,  
Presently working as  
Head of the Department,  
Architecture,  
Women's Polytechnic,  
Maharani Bagh,  
New Delhi-110 065

For the applicant: Shri M.G.Kapoor, Counsel.

For the respondents: Shri G.D.Gupta, and Ms. Avnish  
Ahlawat, Counsel.

JUDGMENT

(By Hon'ble Mr.S.R.Adige, Member(A).)

In this application dated 5.6.89, Smt.Vinita  
Verma, Lady Lecturer(Architecture), Women's Polytechnic  
Maharani Bagh, New Delhi has in the main, prayed  
for;

- i) a declaration that she is senior to  
respondent no.8 Smt.Sushma Mandhar, Head  
of Department, Architecture, Women's  
Polytechnic Maharani Bagh,, New Delhi.
- ii) setting aside the appointment of respondent  
no.8 as Assistant Lecturer, Architecture  
w.e.f. 16.8.77 as well as her appointment  
as Lecturer on adhoc basis and the subsequent  
regularisation w.e.f. 44.6.88.
- iii) setting aside of Smt.Sushma Mandhar's  
promotion as Head of Department, Architecture
- iv) consideration of the applicant's own claim  
as HOD, Architecture, and if selected her  
appointment to that post.

2. It is common ground that in May, 1975, an  
Expert Committee under the Chairmanship of Dr.S.P.  
Luthra, Chairman, Board of Technical Education, Delhi

was constituted by the Central Government to go into the staffing pattern in the Women's Polytechnic, Delhi and give its recommendations. The Committee submitted its recommendations to the Central Government and based upon the same, the Central Government in the Ministry of Education and Social Welfare, New Delhi by its letter dated 4.6.77 addressed to the Chief Secretary, Delhi Administration (Annexure-E) intimated that the President was pleased to sanction a revised staffing pattern of staff for the said Polytechnic with immediate effect.

3. Thus, by this letter all the existing posts of Asstt. Lecturers allocated for professional subjects were upgraded and redesignated as posts of Lecturers, and existing Asstt. Lecturers were to be fitted into the posts of Lecturers provided they possessed the Lecturers' qualification. Similarly all the existing posts of Instructors allocated for professional subjects were upgraded and redesignated as posts of Jr. Lecturers, and the existing instructors were to be fitted into the posts of Jr. Lecturers, provided they possessed the necessary qualifications of Jr. Lecturers.

4. It is from here that the rival contentions appear. According to the applicant, on the relevant date i.e. 4.6.77, Smt. Mandhar was employed as Instructor in Architecture in the said Polytechnic and based on GOI's letter cited above, she was fitted in as Jr. Lecturer (Architecture) on that date. Effective from 4.6.77 no fresh appointment could be made to the posts of Asstt. Lecturer, and only existing Asstt. Lecturers could continue till their appointment as Lecturer on their acquiring the

necessary qualifications. However, Smt. Mandhar began being shown as Asstt. Lecturer w.e.f. 16.8.77, although there was no such posts existing on the authorised strength of the institution as per GOI's letter dated 4.6.77. It is alleged that Secretary, Services Delhi Administration (Respondent no.5), Director, Technical Education, Delhi Administration (Respondent no.6) and Principal, Women's Polytechnic (respondent no.7) colluded with Smt. Mandhar and represented to the UPSC that she had been appointed as Asstt. Lecturer on 16.7.75 itself, and in terms of GOI's letter dated 4.6.77 they were able to obtain UPSC's sanction for her appointment <sup>as Lecturer</sup> /re-trospectively w.e.f. 4.6.77 <sup>vide</sup> order dated 2.6.86 (at Annexure-B). It is further alleged that after obtaining UPSC's approval and after having appointed Smt. Mandhar to the upgraded post of Lecturer, an amendment to the said date was sent to the UPSC vide letter dated 12.12.86 (Annexure <sup>A</sup> R.4), intimating that she was appointed as well as regularised as Asstt. Lecturer on 16.8.77. The applicant avers that the posts of lecturer, except when filled by those who were Asstt. Lecturers, on 4.6.77 could in terms of GOI's letter dated 4.6.77 be filled only by direct recruitment through UPSC. Since Smt. Mandhar was only an Instructor and not an Asstt. Lecturer on 4.6.77, she could only be appointed as Junior Lecturer. The applicant has impugned the order dated 2.6.86 appointing Smt. Mandhar as Lecturer retrospectively w.e.f. 4.6.77 and showing her as appointed as Asstt. Lecturer w.e.f. 16.7.75 in the light of <sup>the</sup> tentative seniority list annexed to the letter dated 25.5.88 (Annexure-A) which shows that Smt. Mandhar had been appointed as well as regularised as Asstt. Lecturer on the same date

i.e. 16.8.77. It is asserted that she could not even have been appointed as Asstt.Lecturer on 16.8.77 as on such a date no such post was in existence on the Polytechnic's authorised strength as per GOI's letter dated 4.6.77. The applicant admits that she her-self joined the institution <sup>as Lecturer</sup> on 31.8.86 and avers that in view of her past experience, the UPSC granted her 5 increments on her appointment vide appointment letter dated 21.11.85 (Annexure-D). She further states that a tentative seniority list of Lecturers was issued by the Directorate of Education, Delhi Administration vide letter dated 12.10.87 wherein Smt.Mandhar was shown as senior to the applicant. The applicant avers that she represented against this on 27.10.87 and when no reply was received and when the Directorate of Technical Education issued the final seniority list on 21.3.88, the applicant again represented on 18.4.88. Soonafter, yet another seniority list was issued on 25.5.88 (Annexure-A) again showing Smt.Mandhar senior to the applicant. The applicant again represented on 4.8.88 and yet again on 17.8.88. The respondents ultimately rejected her representation on 5.10.88, necessitating this O.A. Meanwhile she had also represented to the UPSC (respondent no.3) on 7.9.88 but had received no reply. On 20.12.89 after the counter affidavit had been filed, the applicant had also filed M.P.No.2843A/89 praying for condonation of delay in filing this O.A.

5. All the respondents, barring the UPSC have filed their counter affidavits. To begin with the application has been challenged on ground of limitation,

in as much as it is stated that the final seniority list had been issued on 21.3.88 after considering all the objections, but the O.A. itself was filed on 5.6.89 and, therefore, stands time barred. The application has been assailed on merits as well. Smt. Mandhar admits th-at she was working as Instructor from 1975, but avers that well before the GOI's letter dated 4.6.77 regarding implementation of the Luthra Committee's recommendations i.e. in December, 1976 itself, the process of filling up the vacant posts of Asstt. Lecturers(Arch) in Polytechnic had been initiated and three posts of Asstt. Lecturers were advertised by UPSC. She avers that she applied<sup>for</sup> one of them and was interviewed on 2.3.77(Annexure-R1). However, since the finalisation of the selection procedure and issuance of the appointment letter took some time, the Dte. Tech. Edn. could issue the letter addressed to the Principal Govt. Polytechnic appointing Smt.Mandhar as Asstt. Lecturer only on 16.8.77 (Annexure.AR2) and she assumed charge on that date itself. Meanwhile by Polytechnic Office order dated 27.8.77(Annexure-R11), she was relieved from her duties as Instructor retrospectively w.e.f. 16.8.77 to join as Asstt. Lecturer. Smt.Mandhar thus claims that she was appointed as an Asstt. Lecturer against a vacancy which existed prior to 4.6.77, but for no fault of her own could join only on 16.8.77. She avers that although the letter of appointment issued on 16.8.77, she was treated as having been appointed as Asstt. Lecturer w.e.f. 4.6.77. It is further contended that the orders pursuant to GOI's letter dated 4.6.77 and subsequent ~~communications~~ <sup>communications</sup> reorganising the staffing pattern of the Govt. Polytechnic were issued by the Directorate of Technical Education, Delhi Administration only on 7.12.79, though it was no doubt given

retrospective effect from 4.6.77. It was pursuant to those orders dated 7.12.79 that Smt. Mandhar was appointed as Lecturer on adhoc basis on 1/11.10.80, and subsequently after obtaining the DPC's approval she was confirmed as Lecturer by orders dated 12.4.89 (Annexure <sup>M</sup>AR7) w.e.f. 6.10.80. As regards her appointment as HOD, it has been averred that when her name was sent to UPSC on 30.3.88 for promotion as HOD she was available and eligible, while the applicant had not even completed the minimum of three years as Lecturer in the Institution to make her eligible for consideration.

6. We have heard Shri M.G.Kapoor, learned counsel for the applicant as well as Shri G.D.Gupta, and Smt. Avnish Ahl<sup>a</sup>wat, learned counsel for the respondents at considerable length. We have also perused the materials on record and have given our careful consideration to the matter. As we propose to dispose off the case on merit, we do not consider it necessary or expedient to discuss the plea of limitation taken by the respondents.

7. No doubt, GOI's letter dated 4.6.77 addressed to Chief Secretary, Delhi Administration, sanctioned the revised staffing pattern in the Government Polytechnic with immediate effect, by which the existing posts of Asstt. Lecturers were upgraded to <sup>redesignated</sup> and /as lecturers and existing incumbents in the posts of Asstt. Lecturers were to be fitted into post of lecturers provided they fulfilled the requisite qualifications<sup>as Lecturer.</sup> Similarly the existing posts of <sup>and redesignated</sup> Instructors were to be upgraded/as Jr. Lecturers and the existing incumbents in the posts of Instructors were to be fitted into the posts of Jr. Lecturers provided

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they fulfilled the necessary qualifications of Jr. Lecturers. By this letter, the posts of Asstt. Lecturers stood abolished while 17 additional posts of lecturers and 7 new posts of Jr. Lecturers were to be created for the implementation of this decision. This letter further gave certain directions for framing of the recruitment rules pursuant to the reorganisation and also stated that if any variations were considered necessary, the approval of GOI would be necessary. It also laid down that the expenditure involved in the reorganisation would be met out of the sanctioned budget of the Directorate of Technical Education, Delhi Administration.

8. From a perusal of the contents of Govt. Of India's letter dated 4.6.77, it would be clear that on the basis of this letter of the Govt. of India, sanctioning the revised staffing pattern, the concerned administrative department of Delhi Administration, which was the implementing agency (i.e. Department of Technical Education) was to issue its own orders to implement this directive, including issue of the sanctioning orders creating/upgrading the posts; specifying the particular budgetary heading of account to which the expenditure was debitable etc. This naturally took some time, and ultimately those orders were issued on 7.12.79 (Annexure-R1). It is significant that in those orders dated 7.12.79 reference was made not only to GOI's letter dated 4.6.77 but to 4 subsequent communications from GOI on the subject of reorganisation of the staffing pattern. Thus, the letter dated 4.6.77 was by no means the last communication from GOI on the subject..

9. It is also quite clear that as far back as in December, 1976 itself, steps for filling up the three vacant posts of Asstt. Lecturers had been initiated. Smt. Mandhar who admittedly was an



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Instructor, applied for the same and was called for interview by the UPSC on 2.3.77. Smt. Mandhar's personal file bearing No.12/42/77-SI maintained by Delh.Admn. has been produced by the respondents for our inspection. In that file, a copy of UPSC's letter dated 15.3.77 addressed to the Chief Secretary, Delhi Administration is available, stating that of the three posts of Lady Asstt. Lecturer(Arch.), one was reserved for a SC candidate but was to be treated as unreserved if no such candidate was found suitable. There were 13 applicants, in all, but none of them belonged to the Scheduled caste. The UPSC considered the applications of all the candidates and summoned and interviewed 11 of them on 2.3.77. The Commission recommended three candidates; namely 1.Smt.Pramila Khandelwal, 2. Km.Leela Devi Bhargava and 3.Smt. Sushma Mandhar, treating the third post as de reserved. The letter further went to state that the recommended candidates had been informed about the selection.

10. This letter appears to have been received in the office of Chief Secretary, Delhi Administration on 17.3.77 itself, but the first noting in the file appears to be dated 16.5.77. Meanwhile by Delhi Administration's letter dated 20.4.77, the Director of Technical Education was informed of UPSC's recommendations(Supra) and he was called upon to send certain information in the prescribed proforma before the case for de-reservation of the reserved post was sent to the Government of India. In the office noting dated 16.5.77, it was also noted that as Smt.Mandhar was the juniormost nominee in the panel received from UPSC, the post could be offered to her only after the L.G.'s approval regarding dereservation of the post was received. Thereafter, on 19.5.77, there is

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further noting in the concerned file stating inter alia that since one post was reserved for the scheduled caste the same could be offered to Smt. Mandhar only after it was de-reserved by the L.G. in favour of a general candidate. It was further noted that the Director of Technical Education had intimated by his letter dated 12.5.77 that the post of Lady Assistant Lecturer may not be filled unless a final decision on the Luthra Committee's report was taken. That letter dated 12.5.77 enclosed a <sup>copy of</sup> D.O. letter dated 25.4.77 from Deputy Education Adviser <sup>GOI</sup> stating that they were considering the implementation of the Luthra Committee's report regarding the Women's Polytechnic and requesting that the vacant posts in the Polytechnic be not filled up until a final decision was taken on the recommendations of that report to avoid further complications. Thereupon by D.O. letter dated 28.5.77, the Deputy Secretary (Services), Delhi Administration wrote to the Director of Technical Education that the UPSC had since recommended three names for filling up three posts of Asstt. Lecturers (Arch.), and information regarding implementation of the recommendations of the Luthra Committee had not <sup>been</sup> brought to the notice of Delhi Administration by the Directorate earlier. The Director was informed that it would not be possible to withhold the appointment letters of the nominees of the Commission till such time <sup>as</sup> the proposed decision of GOI was received. The Director of Technical Education <sup>asked to take</sup> was/ up the matter with the Govt. of India for filling up these posts, as the UPSC candidates were available for appointment. Meanwhile, the UPSC by their letter dated 25.5.77 requested that the copy of the offer of appointment issued to Smt. Mandhar pursuant to their

letter dated 15.3.77 be made available to them. Noting in the file indicates that a decision was taken to inform the UPSC that the offer of appointment to Smt. Mandhar could not be made as the post identified by her was a reserved post and dereservation by the competent authority was necessary before appointment to that post is made. Meanwhile, the Director of Technical Education was also asked by D.O. letter dated 10.6.77 to obtain GOI's clearance for making appointment of UPSC's nominees. It appears from another file bearing No.12/40/77.SI, titled 'Recruitment to the post of Lady Asstt. Lecturer(Arch)' also shown to us, that in reply to that letter dated 10.6.77, the Asstt. Director, Tech. Edn.(Admn) called upon the Deputy Secretary(Services) to issue the offer of appointment to the three nominees of UPSC(including Smt.Mandhar) as early as possible, subject to the condition that they fulfilled the educational and technical qualifications for the post of Lecturer, as the Govt. of India, Ministry of Education and Social Welfare had recommended upgradation of these posts as Lecturer. In the office noting dated 1.7.77 also, it is noted that informally the Asstt. Director of Technical Education had intimated on phone that they had received the clearance from the GOI that these posts of Lady Lecturers may be filled up accordingly. On the receipt of the Asstt. Director of Technical Education's letter dated 10.6.77, the file was again re-submitted for orders. Inter alia it was noted that the Asstt. Director of Technical Education had observed that the posts of Asstt. Lecturers(Arch) should be offered to the nominees of UPSC provided they fulfilled the educational qualifications for the post of lecturers, because the GOI had recommended upgradation of the posts. It was further noted that vigilance clearance had been received in respect of the applicant, and the applicant also possessed the

requisite qualifications for the post of Lecturer (Arch) as contained in the recruitment rules notified on 9.6.76 viz. Essential:- a) Degree in Arch. of a recognized University or equivalent. b) Three years' professional/teaching experience. Desirable: Post-graduate degree in Architecture or <sup>As</sup> Town Planning. Smt. Mandhar possessed the essential qualifications and the posts were lying vacant from 26.9.74 and the GOI, Ministry of Education and Social Welfare had accorded their approval for filling up the posts in relaxation of the Economy Ban, approval of the Chief Secretary, Delhi Administration was obtained on 5.7.77 to offer one of the three vacant posts of Asstt. Lecturers(Arch) to the applicant and accordingly the offer of appointment as Lady Asstt. Lecturer (Arch.) in the pay scale of Rs.650-960/- was issued on 13.7.77. We have not been shown the order, if any, by which the L.G. Delhi dereserved this post. However, it appears that pursuant to the offer of appointment, Smt. Mandhar communicated her acceptance immediately. Her medical examination was concluded on 23.7.77 in which she was found medically fit, and the appointment letter was issued on 16.8.77/ (Annexure-AR2) From the Directorate of Technical Education's letter dated 28.9.77, kept in the personal file of Smt. Mandhar, it appears that she assumed charge of the post of Lady Assistant Lecturer on 16.8.77 itself and soon after, by Women's Polytechnic's letter dated 27.8.77 she was also relieved from her duties as Instructor retrospectively w.e.f. 16.8.77 to enable her to join as Lady Asstt. Lecturer w.e.f. 16.8.77.

11. In the light of all that has been stated, it is clear that action to fill up the vacant posts of Asstt. Lecturer had been initiated much before

the GOI's letter dated 4.6.77 sanctioning the revised staffing pattern in the Women's Polytechnic. It is also clear that Smt.Mandhar was found fit for the post of Asstt. Lecturer by the UPSC who interviewed her on 2.3.77. No doubt, the Deputy Education Adviser/<sup>GOI</sup>in his D.O. Letter dated 25.4.77 initially advised the ~~Dir. Tech. Edn.~~ not to fill up the vacant posts of Asstt. Lecturer until/final decision was taken on the recommendations of the Luthra Committee Report, but it appears that the Government of India subsequently reconsidered the matter and had no objection to the issue of the appointment letter to Smt.Mandhar subject to her fulfilling the technical and educational qualifications for the post of Lecturer as the GOI had recommended upgradation of the post of Asstt. Lecturer to that Lecturer.

12. We have no reason to doubt the genuineness of the contents of the <sup>Asstt.</sup>Director of Technical Educations letter dated 30.6.77 and under law there is strong presumption in favour of <sup>the</sup>correctness of official acts, unless the contrary is proved. There is nothing to indicate to us that the Government of India had not given clearance for filling up these posts of Lady Assistant Lecturers or that they had not recommended upgradation of these posts. The offer of appointment was issued to Smt.Mandhar on 13.7.77 and upon her immediate acceptance and clearance by the Medical Board, the appointment letter was issued on 16.8.77, and she joined as Lady Asstt. Lecturer on that date itself. That being the position, it cannot be said that the procedure followed by the respondents was arbitrary, illegal, malafide or violative of Articles 14 and 16 of the Constitution. The only lacuna, <sup>so</sup> <sup>is</sup> if at all it can be <sup>is</sup>termed, that <sup>is</sup>discernable in the procedure followed, the fact that the L.G.Delhi's

approval to dereservation of the post offered to Smt. Mandhar, was not obtained prior to the offer, in the event that such approval was necessary. However, we must note here that UPSC in its letter dated 15.3.77 has categorically stated that of the three posts advertised one was reserved for a SC candidate, but it was to be treated as unreserved, if no such candidate was available. As no candidate belonging to Scheduled Caste applied, the reserved post was treated as dereserved, and Smt. Mandhar was recommended against that post. The applicant has nowhere pleaded that Smt. Mandhar was appointed as Asstt. Lecturer/Lecturer in violation of the rules regarding reservation of the posts, and we must also note that while the equities of no SC members were adversely affected by dereserving the post, there being no SC candidate to compete, a strong equity has been created in favour of Smt. Mandhar by virtue of the fact, that she occupied the post as far back as on 16.8.77.

13. Mr. Kapoor, learned counsel for the applicant has contended vehemently that as the posts of Asstt. Lecturer stood abolished on 4.6.77 vide GOI's letter of even date and the existing Asstt. Lecturers were to be upgraded and redesignated as Lecturers from that date, Smt. Mandhar could not be appointed to a non-existent post. In our view, this is a mis-reading of the situation. Till the revised staffing pattern sanctioned in GOI's letter dated 4.6.77 was actually implemented vide Dte. Tech. Edn.'s letter dated 7.12.79 creating/upgrading the posts, and specifying the budgetary head of account to which the expenditure was debitable, there is nothing to indicate that the old staffing pattern had ceased to operate. From this it would follow that the posts of Asstt. Lecturers were in existence and vacant at the time the

appointment letters were issued to Smt. Mandhar and the two others. It is for this reason that the GOI at whose instance letter dated 4.6.77 was issued, subsequently communicated its no objection to the issue of appointment letter to Smt. Mandhar, but desired that this be made subject to her being eligible for the post of Lecturer, as GOI desired that the posts of Asstt. Lecturers be upgraded to that of Lecturers, in consonance with their letter dated 4.6.77. As Smt. Mandhar was regularly selected through UPSC as Asstt. Lecturer and joined that post on 16.8.77, the date of her initial appointment as well as her regularisation as Asstt. Lecturer was correctly shown as 16.8.77 vide seniority list annexed to letter dated 25.5.88 (Annexure-A).

14. It would appear that after the issue of Dte. Tech. Edn. letter dated 7.12.79 implementing the revised staffing pattern w.e.f. 4.6.77, the appointment of Smt. Mandhar and others as Asstt. Lecturers to the upgraded posts of Lecturer was taken up and these appointments were made on adhoc basis w.e.f. 1/11.10.80 (Annexure-RIII). Thus, Smt. Mandhar started functioning as Lecturer (Arch) on continuous basis w.e.f. October, 1980. Thereafter, it appears that the question of regularisation of the adhoc incumbents was taken in hand. According to the recruitment rules in force at the relevant time for the post of Lady Lecturer (Arch), the requirements were as follows:-

Essential

- i) Degree in Architecture of a recognised University/ Institution or equivalent;
- ii) One year's professional and /or teaching experience in Architecture.

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Desirable

P.G.Degree in Architecture of a recognised University or equivalent.

While the method of recruitment was by direct recruitment, a note had been added which reads thus:-

"The suitability of the regular holders of the posts of Lady Asstt. Lecturer(Arch) in the pre-revised scale of Rs.375-650/- (Group B) will be initially assessed by the Commission for appointment to the upgraded posts of Lady Lecturer(Arch) in the scale of Rs.700-1300/-. If assessed suitable, they shall be deemed to have been appointed to the upgraded posts at the initial constitution".

15. As by orders dated 7.12.79 the posts of Asstt. Lecturers had been upgraded to that of Lecturers w.e.f. 4.6.77., the UPSC in the light of the above note assessed the suitability of Smt. Mandhar for appointment to the upgraded post of Lady Lecturer w.e.f. 4.6.77. The applicant has nowhere alleged that Smt. Mandhar did not possess the requisite qualifications mentioned above, and as she was found suitable by UPSC, she was proposed to be regularised <sup>as against the upgraded post of Asstt.</sup> Lecturer w.e.f. 4.6.77 vide order dated 2.6.86(Annexure-B). The applicant has alleged collusion between the various respondents, in first stating the date of Smt. Mandhar's appointment as Asstt. Lecturer to be 16.7.75 in the order dated 2.6.86 and subsequently revising that to 16.8.77 in the subsequent corrigendum dated 12.12.86(Annexure <sup>AR</sup>4). We are unable to agree with Shri Kapoor that there was any such collusion, in the absence of any concrete evidence to that effect, and we are inclined to accept the version of the respondents that it was a genuine typographical error which was subsequently corrected through the said corrigendum. With DPC's approval, Smt. Mandhar was subsequently confirmed as Lecturer w.e.f. 6.10.80 (Annexure <sup>AR</sup>7) and the applicant, therefore, is clearly junior to her.



16. Coming to the question of the appointment of Smt. Mandhar as HOD, Arch., the recruitment rules prescribed that 2/3rd of the posts were to be filled by promotion failing which by direct recruitment, and the remaining 1/3rd by direct recruitment. It was further laid down that for filling up the promotional posts, the candidates had to be a Lecturer in the Women Polytechnic with three years' service in the grade. The other qualifications prescribed were thus:-  
Essential:

- i) Degree in Architecture of a recognised University or equivalent.
- ii) About 3 years' professional experience of which 2 years should be in teaching.  
 (Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.)

Desirable: P.G. degree in Architecture.

17. It is clear that on the date Smt. Mandhar was sent to U.P.S.C for promotion as HOD i.e. 30.3.88 she possessed the above qualifications, whereas the applicant, who had joined the institution on 31.3.86, did not possess the three years' service in the grade <sup>of lecturer in the women Polytechnic</sup> as she had completed barely two years in the institution. The fact that she was serving elsewhere and that on account of her previous experience she was given five additional increments as averred by her, did not qualify her for being considered for the post of HOD, and under the circumstances, no irregularity was committed by the respondents in not considering her case.

18. From the foregoing analysis, it is abundantly clear that none of the reliefs prayed for

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by the applicant are admissible to her in law,  
and this application, therefore, fails. It is  
accordingly dismissed.

19. No costs.

*S.R. Adige*  
(S.R. ADIGE)  
MEMBER (A)

*J.P. Sharma*  
(J.P. SHARMA) 5/11/95  
MEMBER (J)

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