

(13)

IN CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 2466/89.

Date of decision: 20.1.1995

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

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Miss Bani Baral,
Lecturer in M.L.T.,
Women's Polytechnic,
Maharani Bagh,
New Delhi.

... Applicant

(Applicant in person)

versus:

1. Delhi Administration,
Directorate of Tech. Education,
Rouse Avenue, New Delhi.
2. S.L. Malhotra,
Lecturer (Maths.),
Maharani Bagh,
New Delhi.
3. Mrs. K. Malhotra,
Lecturer (Chemistry),
Maharani Bagh,
New Delhi.
4. Mrs. Sumitra Chopra,
Lecturer (Maths.),
Women's Polytechnic,
Maharani Bagh,
New Delhi.
5. Mrs. Sudesh Batla,
Lecturer (Chemistry),
Women's Polytechnic,
Maharani Bagh,
New Delhi.
6. Mrs. Meera Passi,
Lecturer (English),
Women's Polytechnic,
Maharani Bagh,
New Delhi.

... Respondents

(None)

O_R_D_E_R

☒ Hon'ble Smt. Lakshmi Swaminathan, Member (J) 7

The applicant, who is working as a Lecturer

in Medical Lab. Technology in the Women's Polytechnic, being aggrieved by the revised combined seniority list issued by respondent No. 1 dated 25.5.1988 (Annexure D) has filed this application under Section 19 of the Administrative Act, 1985 to quash the impugned seniority list and to step up her pay vis-a-vis her juniors with consequential benefits.

2. The brief facts of the case are that the applicant joined the post of Lecturer in Medical Lab. Technology in the Women's Polytechnic under the Directorate of Technical Education, Delhi Administration, Delhi, - Respondent 1. She had been selected directly through the UPSC and is working in that post from 4.5.1976. The Government of India had appointed a committee, The Luthra Committee, to review the staffing structure of Women's Polytechnic which submitted its report in June, 1977. The committee had recommended, inter-alia, that the earlier categorisation of staff into Lecturers, Assistant Lecturers and Instructors should be given up and the latter two posts should be abolished and their posts upgraded to that of Lecturer. The Government of India vide letter No. F. 13-75/75-T.I./T/2, dated 7th February, 1978 (Annexure E-2) upgraded the posts of officials shown as respondents Nos. 2-6 in the application to the level of Lecturers w.e.f. 27.5.1970.

13.
3. The applicant relies on a booklet published by the Directorate of Technical Education in February, 1977 in which under the heading of Lecturer, the applicant

is shown at S.No. 82. The respondents 2-6, who were Assistant Lecturers (Class II) and Instructors (Class III) were shown below the list of Lecturers, including the applicant. In the impugned tentative revised combined seniority list dated 25.5.1988, 5 Lecturers from the Humanity Side (non-professional side) ^{who had been upgraded} were shown senior to the applicant against which she made several representations. The applicant submits that the revised seniority list is in violation of fundamental right because the ^{given} retrospective effect to the redesignation/upgradation of Assistant Lecturers and Instructors in the Humanity Side to the post of Lecturers cannot give them right of seniority over persons like her who have been regularly recruited as Lecturers through UPSC. This has also led to a situation where her juniors who were in the grade of Assistant Lecturers/Instructors before upgradation, are now drawing higher pay than her for which she had made a representation for stepping up. Her representations have all been turned down by respondent No. 1. Being aggrieved by this, she has filed this application.

4. The applicant was heard in person. None appeared for the respondents even though called twice. Hence, we have proceeded to consider the case on the basis of the pleadings and records.

5. In the reply filed by respondent No. 1, they have stated that the impugned combined tentative seniority list dated 25.5.1988 has since been cancelled vide

letter No. F. 4/1/88/TE/AD/9656 dated 14.5.1990 (Annexure R-1).

In the light of this cancellation, the respondents submit that this application has now become infructuous and should be dismissed. The respondents have also submitted that since the promotion/confirmation etc. in the department are done separately in each discipline, as such the combined seniority list was considered as serving no purpose and hence cancelled. They have further clarified that by Government of India Order dated 7.2.1978 (Annexure R-2), the posts of officials shown as respondents 2-6 had been upgraded to the level of Lecturers w.e.f. 27.5.1970. Since the posts of these officials who were working as Assistant Lecturers/Instructors in Science & Humanity have been upgraded with retrospective effect, with eligibility of pay as contained in this order w.e.f. 27.5.1970, it is possible that the basic pay of one officer who is deemed to be working as Lecturer w.e.f. 27.5.1970 and the applicant who is working as Lecturer w.e.f. 4.5.1976, cannot be the same and the former is bound to draw more pay than the latter. In the circumstances, the respondents state that the applicant's case cannot be considered for stepping up of pay under FR 22 (c), particularly when the applicant and the respondents are now covered by different seniority lists and different disciplines.

We find that

6. / In the light of the cancellation of the impugned combined revised tentative seniority list in respect of Lady Lecturers dated 25.5.1988 by the subsequent letter of Delhi Administration dated 14.5.1990, this application which was filed in December, 1989 has become infructuous.

Further, in view of the fact that by Government of India order dated 7.2.1978 since the posts of Assistant Lecturers and Instructors had been upgraded to the posts of Lecturers w.e.f. 27.5.1970 together with pay in the revised scale with effect from that date, in accordance with the provisions contained in para 4 therein

13/ the claim of the applicant for stepping up of pay is without any basis and is accordingly rejected.

7. Although the respondents have stated that the Luthra Committee was only concerned with the recommendation with regard to the structure of staff in Women's Polytechnic and has nothing to do so with the aspect of seniority, yet, they have sought to justify the criteria adopted by them in issuing the impugned combined tentative seniority list dated 25.5.1988, which was subsequently cancelled by order dated 4.5.1990. Para 4.8 of the respondents' reply is reproduced below :-

* It is clarified that on 25.5.88 a combined tentative seniority list of all lecturers of Women's Polytechnic was issued and in this the determination of place was based on regular date of appointment. In view of this there does not appear to be any substance in the petition of the petitioner because she has been suitably placed as per her date of regular appointment. It may be mentioned that regularisation has been concurred by U.P.S.C. in the case of petitioner as well as in the case of teachers who have been upgraded w.e.f. 27.5.70. It is further clarified that the above said tentative seniority list has been now cancelled vide No. 4/1/88/TE/AD/9556 dated 14.5.1990 (Copy enclosed)."

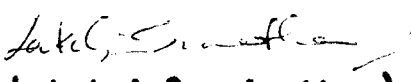
The above statement that the applicant has been suitably placed in the impugned seniority list as per her date of regular appointment w.e.f. 4.5.1976 vis-a-vis the incumbent teachers whose posts were upgraded to that of Lecturers


w.e.f. 27.5.1970 is arbitrary and contrary to law.

The applicant, who is holding a regular post of Lecturer w.e.f. 1976 cannot be shown junior to teachers who were admittedly holding junior positions as Assistant Lecturers/ Instructors on that date and have been brought on to that grade by the subsequent order of 7.2.1978 (see observations of the Supreme Court in UOI v. Tushar Ranjan Mohanty & Ors. [JT 1994 (4) SC 397]). The upgradation of the posts with retrospective effect cannot adversely affect the seniority of the applicant and other similarly situated persons.

This position has, however, become academic because of the cancellation of the combined seniority list but we are constrained to make these observations in order to disapprove the stand taken by the respondents in this regard.

8. In the result, the application is dismissed subject to the above observations. There will be no order as to costs.


(Smt. Lakshmi Swaminathan)
Member (J)


20/11/95
(N.V. Krishnan)
Vice-Chairman (A)