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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Q.A. No. 255 of 1989

New Delhi, this the 10th day of June, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman
Hon'ble Mr B.N.Dhondiyal, Member(A)

Mrs Pramod Sharma, Investigator Grade-II, Ministry of
Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi.

..... Applicant.

(through M/s S.C.Gupta and L.R.Goel, Advocates)

vs.

Union of India, through Secretary, Ministry of Labour,
Shram Shakti Bhawan, Rafi Marg, New Delhi.

..... Respondents.

(through Mr J.C.Madan, Advocate).

Order

The following reliefs have been claimed
in the O.A:

(1) That the order dated 29.1.1988 of the
reversion of the applicant to the post of
Investigator Grade-II may be set aside;

(2) That the applicant may be treated in
the post of Investigator Gd-I on 29.1.88
and thereafter.

(3) That the applicant may be regularised
and given seniority in the post of
Investigator Gd-II.

2. The averments made in the O.A. are these.

The applicant was initially appointed as Investigator
Grade-II in the Ministry of Labour on 16.2.1974. She
was promoted as Investigator Gd-I on adhoc basis w.e.f.
14.1.80. She continued to officiate in this grade till
28.1.1988. On 29.1.1988, she was reverted to the post of
Investigator Grade-II without assigning any reason. She
represented against this reversion. Her first
representation was turned down by the department vide
O.M.dated 16.3.88 and the second one vide letter dated
16.5.1988; hence this application.

2. In the counter filed by the respondents, it
is stated that the applicant was appointed to
officiate as Investigator Grade-I with effect from
14.1.1980 against a purely short term vacancy. She
continued to officiate this post till 2.4.80, whereafter
against ^{by}

she joined on her own request as ex-cadre post at Investigator(Grade-I) in the Backward Classes Commission, New Delhi on deputation. She remained on deputation upto 30.11.1980. On 1.12.1980, the applicant was posted as Investigator(Grade-II) in the Ministry. She was again promoted to a short term vacancy of Investigator(Grade-I) on 1.1.1981. She remained on long spells of leave during 1987 prior to her reversion as Investigator(Grade-II) on 29.1.1988. Her application is misconceived and has no merit and the order dated 29.1.1988 reverting her as Investigator(Grade-II) is perfectly valid.

3. We have heard the learned counsel for the parties and perused the records. The learned counsel for the applicant has argued that the continuous officiation ~~should~~ be considered for the purposes of determination of seniority when the government does not make recruitment in accordance with Rules for both direct recruits and promotees and makes appointments only ^{by} ~~for~~ ^{Ad hoc} promotions and allows them to remain as such for long. This principle has already been accepted in case of Investigators of Labour Bureau Chandigarh, which is a part and parcel of the same Ministry. She also claimed that though she had been recruited w.e.f. 29.1.1988, she is continuing to work on the same desk in the same Section and performing the same duties as Investigator Grade-I. When the case was being heard on 25.4.1994, the learned counsel also stated that the applicant had been subjected to a D.P.C. before she was given an adhoc promotion. On the other hand, the learned counsel for the respondent stated that a D.P.C. was held only on 4.12.1987 and did not find the applicant fit for promotion to the post of Investigator Grade-I.

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4. A perusal of file No. A 32015/1/78-LB shows that the adhoc promotion of the applicant was not made as a result of recommendations of the D.P.C. In para 7(q), the applicant has herself, in her amended Q.A., mentioned that " prior to her reversion and thereafter i.e. 29th January, 1988, no DPC has been constituted and no promotion has been made in her place and till date the post is lying vacant." The learned counsel for the respondent has contended that direct recruitment and promotions have been made to the post in accordance with the rules which provides 50% vacancies to be filled up by each method. Four vacancies which had arisen in the grade of Investigator Grade-I were meant for direct recruitment quota. These were advertised by the U.P.S.C. in April, 1988. Four more vacancies which fell within the promotion quota have also been filled up by promotion of Investigators Grade-II. As per recruitment rules, the post of Investigator Grade-I is a selection post and promotion of Investigator Grade-II to Investigator Grade-I is to be made on the basis of seniority-cum-merit. The departmental promotion committee had itself in its meeting considered the applicant against one vacancy of Investigator Grade-I which occurred in 1987 and she was not selected. It has also been mentioned that those who were selected were senior to her. It has further been mentioned that during her adhoc promotion as Investigator Grade-I, she remained absent on various grounds for different spells for long period during 1987 and attended the office only for short spells, for a total period of 19 days out of full one year.

5. In the facts and circumstances of

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the case, we hold that the applicant was not cleared by the Departmental Promotion Committee for promotion to Grade-I of the post of Investigator and her intermittent ~~adhoc~~ spells of promotion did not confer on her any right of regularisation. This is not a case, where it can be held that the rota quota system had completely broken down. There are limited number of posts, for which selections through the prescribed method of direct recruitment and promotion have already been made. While holding so, we make it clear that there is no bar to the respondents to consider her for ~~such~~ ^{any} adhoc promotions in accordance with seniority and relevant rules ~~if such~~ such vacancy occurs in future. The Q.A. is disposed of with the above observations.

6. There will be no order as to costs.

/sds/

B.N.Dhundiyal
(B.N.Dhundiyal)
Member(A)

S.K.Dhaon
(S.K.Dhaon)
Vice Chairman