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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No.466/89

New Delhi this the 6th May 1994

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

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

Smt. Teresa Lakra,
Junior Investigator,
Directorate General of Employment & Training,
New Delhi. ... Applicant
(By Advocate Shri Manoj Prasad)

Vs.

1. Union of India,
through Secretary,
Ministry of Labour,
Employment & Rehabilitation,
New Delhi.

2. The Director General of
Employment & Training,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi-110 001.

... Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (Oral)

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

The applicant initially joined as Key Punch Operator on 7.2.1962. She also worked as Jr. Computer with effect from 7.9.1966. She was promoted as Senior Computer with effect from 10.9.1971. She was regularised as Jr. Investigator with effect from 6.12.1977. The next promotional post of Sr. Investigator which is filled up 50% by Direct Recruitment and 50% by promotion. The grievance of the applicant is that she belongs to Scheduled Tribe Community and even being the senior-most in the cadre of Jr. Investigator she has not been favoured with promotion to the post of Sr. Investigator and all these years she has been working and stagnating on this post. She has made

representations to the respondents after promotion of one another Ms. S. Panna was quashed by the order dated 11.2.1988 on the petition of an aggrieved person other than the applicant. She also made a representation thereafter that she should be given promotion on the vacancy which has been caused due to the quashing of the promotion of ST Candidate Ms. S. Panna. The respondents did not gave any favourable reply and filed this application in March 1989 praying that the services of the applicant be counted as Jr. Investigator with effect from 7.2.1962 and the seniority of the applicant in Jr. Investigator be fixed from that date and the name of the ST candidates be shown ~~may~~ in the new 40 Point roster and ultimately the respondents be directed to promoted the applicant to the post of Sr. Investigator in view of the judgement of the Tribunal dated 11.2.1988.

2. A notice was issued to the respondent who contested the application and in the reply stated that the contention of the applicant having been denied due benefits is incorrect. The roster has been opened from 1975 in view of the fact that after the introduction of the reservation in promotion in 1972 the first select list was prepared in 1975. Mr. S. Panna, Scheduled Tribe occupied Point No. 4 of the communal roster which was reserved for ST candidates. In view of this the applicant could not have been promoted at the Point No. 4. Her representation for the post of Sr. Investigator has been under consideration in consultation with the Dept. of Personnel & Training and since the applicant has come to the Tribunal, the matter could not be pursued further.

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3. The applicant has also filed the rejoinder reiterating the same facts as alleged in the application. We have heard the learned counsel for the parties at length and also summoned for our perusal the proceedings of the DPC held since 1982 onwards and also the communal roster register. We have perused the same. The respondents further could not lay hands on some of the DPCs held after 1982 and only placed before us the proceedings of the DPC of 1983, 1993, and 1994. As per the recruitment rules the eligibility for promotion to the post of Sr. Investigator is five years regular service in the feeder grade of Jr. Investigator. The applicant does not dispute her regular promotion as Jr. Investigator from December, 1977. Ms. S. Panna another ST candidate though belonging to Jr. Investigator grade was not eligible for promotion as Sr. Investigator as held by the Tribunal in its judgement delivered on 11.2.1988, but was promoted sometime in 1979 and she occupied the roster Point No. 4 of the communal roster. The contention of the learned counsel is that since Ms. S. Panna was wrongly promoted in the office of the Respondent No. 2 the vacancy caused by quashing of her promotion should have been made available to her atleast from the date when the promotion was quashed by the order dated 11.2.1988. The learned counsel for the respondents from the records pointed out that in pursuance of the order of the Tribunal of 11.2.1988 an order of reversion was passed in July 1988 but Ms. Panna by that time has already superannuated and therefore the roster Point No. 4 had been consumed. We have also considered this aspect and we find that since a promotion has been effective rightly or wrongly the point in the roster system has gone and the applicant should have been vigilant at the proper time should not remained contended by making representations to the

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authorities. Though it stands to reason that Ms. Panna had not been promoted the applicant would have been got roster Point No. 4 when she became eligible unless the post would have been ~~de-reserved~~ ~~reserved~~ for other category. The applicant had only come after Ms. Panna retired in 1988 and filed this application in March 1989. In view of this the grievance of the applicant is only imaginary and has no substance. During the course of the hearing it transpires that next point 17 of the communal roster is reserved for ST category and the counsel for the respondents has stated that the applicant is the only candidate eligible for consideration and in the event of favourable recommendation of the DPC may get promotion as Sr. Investigator.

4. We do not find any merit in this application regarding the relief claimed by the applicant and the same is dismissed as devoid of merit. She shall be entitled to be considered in his own turn as per the communal roster on the basis of the Bench mark. In the event parties to bear their own costs.

S.R. Adige
(S.R. Adige)
Member(A)

J.P. Sharma
(J.P. Sharma)
Member(J)

Mittal