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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

...

O.A.No. 589/89.

Date of decision 29.9.92

Dr.(Mrs.) Sushma Vasishtha ... Applicant

V/s

Union of India & Ors. ... Respondents

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Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Member Mr. I.P. Gupta, Member (A)

For the Applicant ... Shri K.L. Bhatia, counsel

For the Respondents ... Mrs. Raj Kumari Chopra,
counsel.

(1) Whether Reporters of local papers may be
allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

J_U_D_G_E_M_E_N_T

[Delivered by Hon'ble Mr. I.P. Gupta, Member (A)]_7

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In this application filed under Section 19
of the Administrative Tribunal Act, 1985, the
applicant has prayed for a direction to the
respondents to issue orders for placement of the
applicant in junior Class I scale of Rs. 700-1300
from 1.1.1973 when her juniors were given this
scale and for a further direction to the respondents
to allow her to cross efficiency bar from due date
i.e. 1.5.1976 in the scale of Rs. 650-1200.

2. According to the Office Memorandum dated 5th April 1975 issued by the Ministry of Health and Family Planning the question of placement of officers belonging to regular General Duty Officers Grade I and Grade II of the CSS in the revised scales of pay in the light of the recommendation of the Third Central Pay Commission was considered and it was decided that all General Duty Officers Grade II in position on 1.1.1973 should be placed in Class I Junior Scale of Rs. 700-1300 subject to screening.

3. The applicant was not placed in the scale of Rs. 700-1300 from 1.1.1973 but was placed in the lower scale of Rs. 650-1200 when her juniors were given the scale of Rs. 700-1300.

4. The contention of the Learned Counsel for the applicant was that no adverse CRs upto and inclusive of the year 1973 were communicated to the applicant. There were adverse entries for the year 1974 as at Annexure I which were communicated to the applicant on 22.11.1975 and the applicant's case is that by considering the adverse CRs for the subsequent years she could not be denied the higher scale of

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Rs. 700-1300 from 1.1.1973. She was given this scale only from 1.1.1979.

5. The ACR dossier of the applicant was seen.

The adverse entries communicated vide Ministry of Health & Family Planning's letter dated 22.11.1975 related to 1973. The Learned Counsel for the respondents said that the recommendations of the Third Pay Commission were accepted by the Government some time in 1975 and accordingly upto date annual Confidential Reports of General Duty Officers Grade II were taken into account by the Screening Committee while considering the cases of all eligible General Duty Officers Grade II who were in position as on 1.1.1973. The minutes of the Screening Committee were not available for scrutiny. Since the screening was to be done for giving the scale from 1.1.1973, it was only just that ACRs upto the year 1972 ^{should have been} ~~were~~ scrutinized. We, therefore, direct the respondents that the case of the applicant be reviewed by the Screening Committee on the basis of ACRs upto the year 1972. It is true that the applicant had adverse remarks even earlier but it is for the Screening Committee to take the

totality of reports upto 1972 into consideration.

In case of any adverse remarks, if they were not communicated, they should not be taken into account but if they were communicated, they have to be duly taken into account irrespective of the fact whether there was any representation or not from the side of the applicant. As regards crossing of efficiency bar, the applicant was considered by the DPC and she was allowed to cross the bar with effect from 1.1.1979, the date on which she was found fit. After perusal of the ACRs of the applicant, we found no good reason to interfere with the orders of the respondents allowing her to cross the efficiency bar from 1.1.1979 and not from 1.5.1976

6. The question of limitation was also raised by the Learned Counsel for the respondents. In this connection the orders dated 25.4.1989 issued by a Bench of the Tribunal would refer. It was mentioned therein that the representation of the applicant dated 17th October, 1987 has not yet been replied to by the respondents and since the main application was filed within 18 months of that representation, the application was admitted.

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In this view of the matter, we keep the question of limitation aside.

7. In the above view of the matter, we direct the respondents to have a rescreening done in the case of applicant on the basis of ACRs upto 1972 to determine her fitness or otherwise for the scale of Rs 700-1300 with effect from 1.1.1973. With this direction, the case is disposed of with no orders as to costs.

I. P. Gupta
I.P. Gupta 29.9.92
Member (A)

Ram Pal Singh
Ram Pal Singh
Vice-Chairman (J)