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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.926/88

New Delhi this the 8th Day of November, 1993.

THE HON'BLE MR. N.V. KRISHNAN, VICE-CHAIRMAN(A)
THE HON'BLE MR. B.S. HEGDE, MEMBER (J)

Mrs. Suman Nirula,
R/o 20/B/91-B, Tilak Nagar,
New Delhi

...Applicant

(By Advocate Shri Ashish Kalia)

Versus

Union of India through the
Secretary, Ministry of Energy,
Department of Non-Conventional
Energy Sources, Block No.14,
C.G.O. Complex, Lodi Road,
New Delhi-110003.

...Respondent

(By Advocate Miss Pratima Mittal)

O R D E R (Oral)

(Hon'ble Mr. N.V. Krishnan)

The applicant was engaged as a daily rated casual Stenographer Grade 'D' on 7.12.83 in the office of the respondents, the Department of Non-Conventional, Energy Sources. He continued on that post with short technical interruptions till April, 1987. She applied for regularisation on 3.4.1987 (Annexure A-1) when, the second respondent directed that the applicant will be taken in Indian Renewable Energy Development Agency (IREDA for short). The applicant joined there and made a representation (Annexure A-2) to the respondents on 20.5.1987.

2. Not receiving any reply, this O.A. has been filed for a direction to set aside the order dated 30.4.87 (Annexure A-7) and to give the applicant temporary status and 'equal pay for equal work'.

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3. The respondents have filed their reply. It is stated that the question of regularisation does not arise and the applicant was not appointed to any post. Further the posts of Steno-Typist and Stenographer is filled on a regular basis only through examination conducted by the SSC/UPSC. If the applicant was desirous of such regularisation she could have appeared in those examinations. In so far as the complaint that juniors are retained, the respondents submit that in respect of the daily paid workers the question of seniority does not arise, as they are engaged from time to time.

4. We have heard the learned counsel of both the sides. The respondents are on strong grounds when they claim that regularisation can be done only if there are posts and even then the regular appointment is made only after selection by the SSC or by the UPSC. It was open to the applicant to approach the Department to create post of Stenographer in view of the fact that she has been working as a daily rated worker for more than three years. This is not the issue in the present case.

5. In the circumstances, in so far as the regularisation is concerned, we are of the view that until posts are available, the question of considering the applicant does not arise.

6. The applicant, however, has a grievance that her juniors are continued in the Department while she has been sent to the I.R.E.D.A. We are unable to agree with the

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averments made in the reply that the question of seniority does not arise in respect of daily paid workers. In this category of employees also, the seniority is prepared on the basis of the total number of days of engagement as daily paid worker. If, on that basis, the applicant was senior, in the normal course, she should have been retained in the department instead of being sent to the I.R.E.D.A. For, such action could be taken on the basis of seniority in the Department.

7. In the circumstances, we are of the view that this applicant is entitled to some relief. We, therefore, dispose of this O.A. with the direction to the respondents to consider the claim of the applicant for retention in the Department as a daily rated worker (Stenographer Grade-D) on the ground that she is senior to three other persons who have been so retained in the department, though they are her juniors. This may be done within a period of two months from the date of receipt of this order. The O.A. is disposed of, as above.

B.S. Hegde
(B.S. HEGDE)
MEMBER(J)

San.

N.V. Krishnan
8.11.93
(N.V. KRISHNAN)
VICE-CHAIRMAN