



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2201/2020

Thursday, this the 29th day of December, 2020

(Vacation Bench)

Through video conferencing

Hon'ble Mr. Pradeep Kumar, Member (A)

Hon'ble Mr. R. N. Singh, Member (J)

Dr. Sonali Badhe,
D/o Shri Gopalrao Badhe,
R/o B-34, Central Govt Quarters,
14, Iron Side Road,
Kolkata - 700019.

...Applicant

(Mr. Sarthak Bhatia , Advocate)

Versus

1. The Directorate of Enforcement,
Through the Secretary,
Loknaya Bhavan, 6th Floor,
Khan Market,
New Delhi – 110 003.
2. The Union of India,
Through the Revenue Secretary,
Ministry of Finance,
First Floor, North Block
New Delhi – 110 001.
3. Union Public Service Commission,
Through its Secretary,
Dholpur House,
Shahjahan Road. New Delhi – 110 069.

...Respondents

(Mr. Y. P. Singh, Advocate)

ORDER (ORAL)

Mr. Pradeep Kumar, Member (A):-

The applicant herein had joined the respondents as Assistant Legal Adviser on 01.07.2010. She was promoted as



Deputy Legal Adviser (Grade Pay Rs 7600), vide an order dated 20.03.2018. The next promotion lies to the post of Additional Director (Prosecution) for which the relevant Recruitment Rules issued on 15.6.2011, prescribe that it will be filled up by promotion, failing which by deputation. The other part of eligibility for the promotion reads as under:-

“Promotion: Deputy Legal Adviser in Pay Band-3 of Rs.15600-39100 and Grade Pay of Rs.7600 in the Directorate of Enforcement with five years regular service in the grade failing which combined regular service of ten years as Assistant Legal Adviser and Deputy Legal Adviser subject to minimum of three years regular service as Deputy Legal Adviser.

Note 1: Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors shall also be considered provided they are not short of the requisite qualifying or eligibility service by more than half of such qualifying or eligibility service, or two years, whichever is less, and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying or eligibility service.”

2. The applicant pleads that her promotion as Deputy Legal Adviser (GP Rs 7600/-) was actually due in 2013, but was delayed and she could get it on 20.3.2018 only after agitating for it in OA-527/2017. It was further pleaded that in terms of Ministry of Finance OM dated 28.11.2016 in relation to financial upgradation under MACP, this GP Rs 7600/- is deemed granted to her w.e.f 1.1.2018. However this period prior to 20.3.2018, is not being counted for assessing her eligibility for promotion to the post of Additional Director (Prosecution) as a departmental candidate. Her name is not being considered as eligible for promotion and



respondents are resorting to appointment by way of Deputation, for which notification has been issued on 23.11.2020.

Feeling aggrieved, this OA has been filed seeking to quash the notification Dt. 23.11.2020 and instead to hold DPC for Departmental Candidates. Interim relief has also been sought.

3. Matter has been heard. It is admitted that the applicant herein, was promoted as Deputy Legal Adviser in grade pay of Rs.7600/- vide order dated 20.03.2018. Grant of this GP earlier, as part of Financial Upgradation, cannot be said to be regular promotion to this Grade.

Accordingly in keeping with the minimum eligibility required as per the recruitment rules, she has not completed 05 years of service as a Deputy Legal Adviser. The other eligibility requirement of total 10 years of service as a Assistant Legal Adviser and Dy Legal Adviser, where minimum 03 years service should be as Dy Legal Adviser, is also not satisfied, as the three year period is going to be over on 20.3.2021.

4. The applicant had earlier approached Tribunal for seeking this eligibility for this very promotion, in OA-131/2020 which was decided on 13.2.2020. Following directions were passed

“12. At any rate the applicant at the most can be considered for promotion as and when DPC meets and, in case, she fulfils the stipulated criteria. We cannot issue any positive direction to promote the applicant.

13. We do not find any merit in the OA and the same is accordingly dismissed, There shall be no order as to costs.”



These orders were challenged by filing a Writ before Hon'ble High Court of Delhi. Vide order Dt. 12.11.2020, the CAT orders were upheld. The notification Dt. 23.11.2020 was thereafter issued.

5. The applicant has also made a representation Dt. 7.12.2020, seeking to be considered for said promotion. It has been pleaded that this needs to be decided first before going ahead with process to complete deputation.

6. In view of the above, once the applicant herein does not satisfy the minimum eligibility requirements for the said post of Additional Director (Prosecution), there is no reason to delay the process of selection of a candidate, initiated on 23.11.2020. The applicant has also not brought out anywhere that anyone of her junior is being considered for said promotion.

There is no force in the contentions put forward by the applicant to be considered for promotion to the said post.

7. The Tribunal does not find any merit in the OA and the same is liable to be dismissed. Accordingly, this OA stands dismissed. There shall be no order as to costs.

(R. N. Singh)
Member (J)

(Pradeep Kumar)
Member (A)