

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1476
T.A. No.

1987.

DATE OF DECISION July 27, 1989.

Smt. Anita Sahni _____ Petitioner

Shri M. Chandrasekharan _____ Advocate for the Petitioner(s)

Versus

Union of India & Ors. _____ Respondent

Shri J.C. Sharma, Assistant _____ Advocate for the Respondent(s)
Ministry of Finance.

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. P. S. Habeeb Mohamed, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal? No

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1476/87

Date of decision 27th July, 1989

Smt. Anita Sahni
vs.

... Applicant

Union of India & Ors

Respondents

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman
Hon'ble Mr. P.S. Habeeb Mohamed, Member(A)

For the Applicant

... Shri M. Chandersekharan, counsel

For the Respondents

... Shri J.C. Sharma, Assistant,
Ministry of Finance.

(Judgement of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji, Chairman)

Shri M. Chandersekharan, learned counsel for the Applicant very fairly stated that the Annual Confidential Reports of the Applicant, Smt. Anita Sahni employed as Deputy Collector, Central Excise Collectorate, New Delhi be perused and if it is found that her entries from 1975-76 to 1981-82 are consistently of a very high standard and she had earned a lesser adulterated entry in any one year, whether the same had been conveyed to her. He urged that if it was so, then that particular entry had to be ignored on the basis of the other entries and she deserved to be restored to the inter se seniority in her batch. In case if there was no such entry which was of a lesser quality, then in that event, if the Bench was satisfied after perusal of the ACRs, it had to pass an order in accordance with law.

Before we advert to these questions, it would be relevant to state the facts of the case very briefly. The

Applicant joined the Indian Customs and Central Excise (Class I) in the year 1970 after being successful in a competitive examination conducted for the selection of All India Services by UPSC in 1969. According to the order issued by the Government of India, the Applicant stood first in the merit list in her batch. After training she was posted as Assistant Collector in Bombay Customs in December, 1972. By Notification published in the Gazette of India dated 17th August, 1982, she was promoted to the senior scale of her service w.e.f. 1.11.73. She retained her position in her batch of 1970 in the above promotion order. She was thereafter posted as Assistant Director in the Directorate of Training, New Delhi where she continued to work till April, 1982. In November, 1982, the Applicant was promoted as Deputy Collector on ad hoc basis in the Office of Chief Controller of Imports and Exports. In this ad hoc order, she retained first position in her batch of the service and was shown at serial No. 6. On 27-1-83 she was promoted on a regular basis in the grade of Deputy Collector of Customs and Central Excise and in the order of the aforesaid date the Applicant's name was shown at Sl. No. 129 and several officers of her batch and even of subsequent batches who were junior to her were shown to occupy positions ahead of her. The Applicant made a representation in February, 1983 to the Central Board of Excise and Customs that she had earned a general reputation for outstanding integrity, competence and had substantial

achievement to her credit and at no occasion her work was found wanting or deficient nor any deficiency or drop in performance was pointed out. Her representation was rejected on 25.3.1985 without assigning any reason. She had thereafter made a request for reconsideration of her case to the Finance Minister for being informed of precise reasons for supersession and the criteria adopted for grading officers. The Application was rejected by a letter dated 17th October, 1986. She had urged that matters like recruitment, seniority and promotion have to be regulated by statutory rules or by appropriate administrative instructions and could not be matters of secrecy. Thereafter, she has filed the present Application before the Principal Bench praying for several reliefs including furnishing of recruitment rules, decisions, principles etc. for regulating matters of recruitment, seniority and promotion in the cadre, information regarding the power, role and function of DPC's and furnishing copies of CRs to the Applicant and restoring her to the inter se seniority in her batch.

It is not necessary to go into the questions raised by her in the OA. Suffice to say that her learned counsel very properly submitted her case for the examination of the ACRs by the Bench and passing of appropriate orders. We say, it was proper on the part of her counsel, for a perusal of the OA shows that it was based on certain assumptions and conjectures as to what entries she had earned in the ACRs.

Her assumption that she had received entries like 'outstanding' were not actually based on personal knowledge, for the entries in the ACRs are not conveyed to employees unless there is something adverse communicated to them. Shri Chandersekharan referred to two decisions, one of the Gujarat High Court and other^{of} the Madras Bench of the Tribunal where the latter followed the decision of the Gujarat High Court. In the case of Gujarat High Court, the learned counsel urged, the view taken was that if an employee had earned four 'outstanding' entries and the fifth entry was not a bad entry but was lesser than outstanding, in that event the employee has to be informed of the change of the position so that he may improve his performance and for the purpose of promotion that particular entry was to be ignored. The Madras Bench of the Tribunal followed the above decision. We are mentioning this argument for it was urged at the Bar but the question would only arise if the facts of the case establish that there were really four 'outstanding' entries or four 'very good' entries followed by one 'good' entry. That is not so in the present case. No counsel appeared on behalf of the respondents but Shri J.C. Sharma, Assistant, Ministry of Finance was present on behalf of the respondents. He had brought the ACRs in a sealed cover and gave it to us for our perusal. We have examined the entries of 1977-78,

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1978-79, calendar year 1979, calendar year 1980 and calendar year 1981. We have not come across any 'outstanding' entry anywhere. The entries are consistently one way and there has been no change in the position except in 1977-78 when it was one grade better. Consequently, the assumption that the entries were outstanding and one entry of lower grade has made her lose her seniority is not borne out from the record. As it is, her entry is not that high which would merit special consideration. We would not like to say anything more about the entries for it is a confidential matter except to say there is no entry which could be said to be adverse to the Applicant nor any entry which was necessary to be communicated to the Applicant even in terms of the decisions referred to above.

In view of the above, we do not find any merits in this OA and it must fail.

No other point was pressed.

The OA is accordingly dismissed but with no order as to costs.

P.S. H. M.
(P.S. Habeeb Mohamed)
Member (A)

A.B.
(Amitav Banerji)
Chairman