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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

CCP 170/93 in Date of decision: 27.7.1993.  
O.A.1323/87

Mrs M.E. Topo ... Petitioner.

Versus

Union of India & Ors. ... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the petitioner. Shri J.P. Verghese,  
Counsel.

For the Respondents. Shri P.P. Khurana,  
Counsel.

JUDGEMENT (ORAL)  
(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The direction in the judgement rendered by the Tribunal in O.A.1323/87 is that the respondents should consider the case of the petitioner for promotion on ad hoc basis or otherwise from October, 1987 and if she is found suitable as on that date, according to qualifications, experience and performance, she should be given the promotion from October, 1987 and notional benefit in regard to fixation of pay should be given from October, 1987 which will consequently give advantage in the retiral benefits.

2. The respondents' case is that they have complied with the direction of the Tribunal. They have also produced a copy of the communication

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dated 9.3.1993 wherein they have stated that in accordance with the decision of the Tribunal, the case of the petitioner has been considered carefully but the petitioner does not fulfil the educational qualifications, experience and other conditions for the post of Nursing Superintendent as per approved recruitment rules in force at that time. It is further stated that the petitioner cannot be given promotion to the post of Nursing Superintendent from October, 1987 or from any subsequent date nor notional benefit in the circumstances. This communication, in our opinion, is sufficient to show that the respondents have faithfully carried out the direction in the judgement inasmuch they have considered the case of the petitioner for promotion from October, 1987.

3. Shri. Verghese, learned counsel for the petitioner, however, maintained that what was required to be assessed was only suitability and the eligibility was not the matter on which the respondents are required to apply their mind. It is not possible to accede to this contention. It is specifically stated that the suitability for appointment has to be decided taking into consideration the qualifications, experience and performance. We are not satisfied with the contention of the petitioner's counsel that there has not been consideration of the case of the petitioner. Hence, no action under the Contempt of Courts Act can be taken.

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4. If, however, the decision on merit is not satisfactory and the petitioner has good case, nothing which we have said in these proceedings, will come in the way in agitating ~~the~~ appropriate proceedings by him. These proceedings are accordingly disposed of.

*Arulagi*  
(S.R. Arulagi)  
Member (A)

*Malimath*  
(V.S. Malimath)  
Chairman

'SRD'