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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O. A. NO. 2469/1990

DECIDED ON: October 30, 1991

Dr. (Ms) Meena Dube ... Applicant

Vs.

Lt. Governor of Delhi & Ors. ... Respondents

Shri K. L. Bhatia, Counsel for the Applicant

Shri M. C. Garg, Counsel for the Respondents

CORAM : HON'BLE MR. JUSTICE RAM PAL SINGH, V.C. (J)

HON'BLE MR. P. C. JAIN, MEMBER (A)

J U D G M E N T

Shri P. C. Jain, Member (A) :

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was posted as Senior Hindi Officer in the Language Department of Delhi Administration and had also been entrusted with the current charge of the duties of the post of ^{Deputy} Director (Language) without any additional remuneration, has assailed the impugned order dated 4.9.1990 (Annexure I) by which her services were to be placed at the disposal of Director of Education with immediate effect. She has prayed for the following reliefs :-

- "(i) That the Respondents may be directed to withdraw the impugned order dated 4.9.90 and she be allowed to continue to work as before as if this order was never issued with all consequential benefits.
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- (ii) She may be considered for the post of Deputy Director (Languages) on regular basis by virtue of her experience as Senior Hindi Officer and Deputy Director (Languages).
- (iii) Such other relief as this Hon'ble Tribunal may deem just, fit and proper in the circumstances along with costs of the proceedings.
- (iv) The respondents may also be directed to issue declaration of applicant as Quasi Permanent and order of confirmation from due date as Sr. Hindi Officer."

2. As an interim measure, a direction was ~~also~~ issued that if the applicant reported for duty, she shall be allowed to join as Senior Hindi Officer, the post to which she was appointed.

3. The respondents have contested the application by filing their return and the applicant has filed a rejoinder thereto. We have carefully perused the material on record and also heard the learned counsel for the parties. The case can be finally disposed of at the admission stage and we propose to do accordingly.

4. The main question which falls for determination in this case is whether the Languages Department under the Delhi Administration is separate from the Department of Education and further whether the applicant was appointed to a post in the Department of Language or in the Department of Education. The case of the applicant is

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that the Department of Language is separate from the Department of Education/Directorate of Education, firstly because the duties of the Language Department have been separately given in the allocation of Business Rules (as reproduced in sub-para (v) of the rejoinder) and that these duties and functions do not in any way belong to the Directorate of Education/Department of Education; secondly, the Plan-Statement for the year 1987-88 shows that the two Departments are separate, both the Departments perform different functions and the scheme of strengthening of the Language Department comes under the Head of Arts & Culture and its expenses are met from the funds of the Directorate of Languages. These contentions have not been rebutted by the respondents by placing any material to prove to the contrary. It is also the contention of the applicant that the post of Senior Hindi Officer to which she was appointed was created vide letter dated 8.12.1981 which was addressed to the Deputy Director (Language), in the Language Department. The Recruitment Rules for the post approved vide notification dated 28.11.1982 clearly state that the post of Senior Hindi Officer was in the Languages Department. Further, the post of Senior Hindi Officer advertised by the U.P.S.C. on 24.9.1983 and the information for candidates issued by the U.P.S.C. clearly mentions that the recruitment was being made for the post of Senior Hindi Officer in the Language Department of Delhi Administration. The duties notified for this post in the aforesaid information for candidates also show that the post pertains to the Language Department. The applicant was offered the post of Senior Hindi Officer in the Language Department and she was also appointed to take charge of the

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said post in the Language Department. In addition, the need for creation of two new posts, e.g., Senior Hindi Officer and Deputy Director (Languages) arose during the 6th Five Year Plan in the year 1980-81 in the expansion scheme of Language Department of Delhi Administration when Urdu and Punjabi Academies were formed and for coordinating the work of three academies of the Department. These two posts were created by keeping the post of Assistant Director (Hindi) in abeyance. The applicant was appointed to the post of Senior Hindi Officer which was created as above.

5. The learned counsel for the respondents drew our attention to the letter of appointment at Annexure-IV and argued that this letter is addressed to the Joint Secretary (Education), Delhi Administration and that it is mentioned therein that Kumari Meena Dube (the applicant) was appointed against a temporary post in his Department. It is, therefore, contended that the appointment of the applicant was to the Education Department and not to the Language Department. This contention, however, cannot be sustained, firstly, because a copy of the appointment letter referred to is also endorsed to the Deputy Director (Language), Delhi Administration, Delhi and secondly, the respondents have failed to show that a post of Senior Hindi Officer is sanctioned for the Education Department. It has, therefore, to be held that the Language Department has a separate entity under the Delhi Administration even though for purposes of supervision it may have interlinkages with the Services Department or the senior officers who may be holding senior positions in the Services Department or the Education Department. It has also to be held that the applicant was appointed to the post of Senior Hindi Officer which was created in the Language Department.

6. As regards the entrustment of current duties of the post of Deputy Director (Language) to the applicant vide order dated February, 1988 without any extra remuneration (Annexure-V) and the deprivation of the applicant of that charge vide the impugned order dated 4.9.1990 (Annexure-I), we are of the considered view that the applicant had not acquired any legal right to hold the additional charge of the post of Deputy Director (Language). It is clearly stated in the impugned order dated 4.9.1990 that the post of Deputy Director (Language) is not in existence until and unless revived and continued and that as such any arrangement of current duty or otherwise against the defunct post is irregular. It is clear from the material on record that the sanction for the continuation of the temporary post of Deputy Director is not in existence. The learned counsel for the respondents also stated at the bar that the sanction for the continuation for the post of Deputy Director has not been extended and that for the present it is not required. Respondents have also stated in their reply that the post of Deputy Director (Language) was only a temporary post and the sanction for continuation thereof was only upto 28.2.1988, and that the same could be filled up as per the recruitment rules only after it was revived. Thus, the claim of the applicant to continue to hold the charge of the current duties of the post of Deputy Director (Language) cannot be upheld. As regards the eligibility for being appointed to that post as and when the same is revived, it will depend on the relevant recruitment rules and the applicant can apply for the same at the appropriate time, if otherwise eligible.

7. The applicant has also prayed for a direction to the respondents to declare her as quasi permanent and order confirmation as Senior Hindi Officer from the due date.

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It is clear from the material on record that the applicant was appointed against a temporary post. She can be granted ^{only} quasi permanent status/in accordance with the provisions of Central Civil Services (Temporary Service) Rules, 1965 by the competent authority after a positive decision is taken by it in that regard.

8. The learned counsel for the applicant also urged at the bar that if the post of Deputy Director (Language) is not being continued, the post of Assistant Director can be revived and the applicant can be promoted thereto. As already stated by us above, when the posts of Senior Hindi Officer and Deputy Director (Language) were created, the post of Assistant Director was kept in abeyance. As such, the post of Assistant Director is not available unless it is specifically revived by the competent authority. In any case, the appointment to that post, if and when it is revived, will be regulated by the relevant recruitment rules and no direction can be issued by the Tribunal for appointment of the applicant thereto.

9. In the light of the foregoing discussion, the impugned order dated 4.9.1990 is quashed and set aside only in so far as it places the services of the applicant at the disposal of Director of Education and the respondents are directed to post the applicant to the post of Senior Hindi Officer in the Language Department of Delhi Administration, i.e., the post for which she was recruited and which still is in existence. The other reliefs prayed for are disallowed. On the facts and in the circumstances of the case, we leave the parties to bear their own costs.

P. C. Jain
(P. C. JAIN)
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN (J)