

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(3)

O.A. No. 137/91
T.A. No.

199

DATE OF DECISION 31.10.1991

<u>Smt. Neelam Lata Goswami</u>	Petitioner
<u>Shri M.K. Gupta</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors.</u>	Respondent
<u>Shri M.K. Sharma</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Ms.Usha Savara, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? N
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. Whether it needs to be circulated to other Benches of the Tribunal ? N

ORAL JUDGEMENT

(of the Bench delivered by Hon'ble Vice Chairman Shri.P.K.Kartha)

This applicant who is working as Sub Inspector in the Delhi Police is aggrieved on account of her non-promotion to the post of Inspector (Woman) Delhi Police, even though, many persons who have been appointed as Sub Inspectors subsequent to her appointment, have been promoted as Inspector. She is relying upon the Judgement of this Tribunal in T-871/85 which was delivered on 17.5.89. According to the said Judgement, the applicant was to be reinstated in service with all consequential benefits.

(4)

2. The respondents have reinstated the applicant with effect from the date of her dismissal from service in 1979. She has also been given the arrears of pay and allowances due to her. The case of the applicant for promotion as Inspector was considered by the DPC held on 5.4.90, but, she was not found fit for admission of her name to promotion list 'F' (Women).

3. The admitted factual position in this case is that, four DPCs were held from 1986 to 1991, as a result of which several persons were brought on promotion list 'F' (Women) (vide orders at pages 21 to 24 of the paper book). The applicant contends that her name should have been brought on the list immediately after Ms. Rachpal Kaur and before Ms. Sharma Arora in the promotion order dated 2.6.87 on page 22 of the paper book. The respondents have contended that the applicant has only a right to be considered for promotion and that this has been done by them.

4. After hearing both sides, we are of the opinion that after the Tribunal delivered its Judgement on 17.5.89, the applicant was entitled to be considered along with others in the DPCs which were held prior to that date. The effect of the Judgement is to wipe out the infirmity which would have stood in her case in all respects including promotion.

5. In view of this, the respondents are legally bound to consider the case of the applicant for promotion as on 1986, 1987 and 1988 when four DPCs were held to consider promotion of Sub Inspectors to the grade of Inspector.

6. Accordingly, we partly allow the application and dispose it of with the direction to the respondents to consider the case of the applicant for promotion by constituting a Review

5

DPC within a period of three months from the date of communication of this order. The Review DPC should consider the fitness of the applicant for promotion in 1986, 1987 and 1988, in terms of Rule 17(i) of the Delhi Police Promotion and Confirmation Rules, 1980. As the applicant had been out of service from 1979 to 1989, no assessment about her performance would have been made in the Annual Confidential Reports. In our opinion, as the effect of the Judgement of the Tribunal dated 17.5.89 is to wipe out the misconduct alleged against her, the DPC should consider that period as fit for promotion from the point of view of performance. The applicant's suitability should be judged by the DPC by taking into consideration other factors mentioned in Rule 17(i) of the Delhi Police Promotion and Confirmation Rules, 1980 and if she is found fit by the DPC, she should be promoted as Inspector (Woman) from the due date. In that event, she will be entitled to all consequential benefits.

7. The application is disposed of accordingly. There will be no order as to costs.

U. Savara
(USHA SAVARA)
MEMBER(A)

P. K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J)