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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Date of decision: 22/10/93

(1) OA No.1751/91

Mrs.Praveen Dutt. ... Petitioner
vs.

Union of India
through Ministry of Home Affairs
& ors. ... Respondents

(2) OA 533/99

Mrs.Nirmal Verma ... Petitioner
vs.

Union of India
through Ministry of Home Affairs
& ors. ... Respondents

For the petitioners ...Mrs.Avnish Ahlawat,Counsel.

For the respondents ...Sh.D.N.Goberdhun,Counsel.

JUDGEMENT

(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

The controversy in these two applications is the same. They have been heard together and they are being disposed of by a common judgement.

2. The petitioners are Inspector (Woman) in the Delhi Police. Their grievance, in substance, is that on account of the orders passed appointing them as regularly appointed Inspectors at a belated stage their seniority amongst Inspectors inter se has been affected which will eventually jeopardize their chances of being promoted to the rank of Assistant Commissioner of Police which is a general cadre.

3. The relief in both the applications, in main, is that the respondents may be directed to promote Mrs.Praveen Dutt from 27.9.1982 and Mrs.Nirmal Verma from 1.12.1982 when posts of Inspector(Woman) fell vacant and to confirm them from 27.9.1984 and 1.12.1984 respectively or in the alternative the ad hoc promotion of Mrs.Praveen Dutt from 18.3.1983 and of Mrs.Nirmal Verma from

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13.5.1983 should be considered as regular.

4. Separate counter-affidavits have been filed on behalf of the respondents in these two applications. Their contents are substantially the same. We shall refer to the counter-affidavit filed in OA No.1751/91(Mrs.Praveen Dutta). The material facts have been clearly and fairly stated in the counter-affidavit. They are:

The petitioners were confirmed as Sub-Inspector(Woman) on 20.10.1973. Two vacancies in the post of Inspector fell vacant on 27.9.1982 and 1.12.1982 as a result of promotion of one Inspector(W) and the retirement of another Inspector(W). These two posts were, however, utilised for promoting male Sub-Inspectors(Ex) just to meet the additional manpower requirement in connection with ASIAD,1982 and simultaneously it was decided that the next 2 vacancies in the rank of Inspector(Ex) would go to women. As a sequel to the earlier decision, Mrs.Praveen Dutt was promoted as Inspector(W) with effect from 18.3.1983 and Mrs.Nirmal Verma as Inspector(W) with effect from 13.5.1983. These promotions were purely temporary and on ad hoc basis under Rule 19(4) of the Delhi Police (Promotion & Confirmation) Rules,1980 (hereinafter referred to as the Rules). The petitioners were promoted on regular basis with effect from 13.2.1986. Mrs.Praveen Dutt was confirmed with effect from 13.2.1988 and Mrs.Nirmal Verma was confirmed with effect from 9.5.1989. Both the petitioners successfully completed the period of their probation. Upon the receipt of the representations from the petitioners by the Commissioner of Police, Delhi regarding the regularisation of their ad hoc promotion as Inspector and consequent confirmation, a decision was taken

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to move a proposal for the creation of two posts of Inspector(Woman) for the period from 17.9.1982 to 18.3.1983 and 1.12.1982 to 13.5.1983 to accommodate the petitioners so that injustice is not done to them. Accordingly, a proposal had been sent. The seniority is reckoned from the date of confirmation.

5. The facts of the cases as admitted in the counter-affidavit speak for themselves. Rule 5(ii) of the Rules provides inter alia that all promotions from one rank to another against temporary or permanent vacancies, except in the case of ad-hoc arrangements, shall be on officiating basis and the employees shall be considered for confirmation only on availability of permanent posts and on successful completion of probation period of minimum 2 years. On the conclusion of the probationary period, the competent authority may either confirm the promotee or revert or, if it so thinks fit, extend the period of probation by the year and on cancellation of the extended period of probation pass such orders as it may deem fit.

6. The contents of the counter-affidavit narrated above, may be reread to find out whether two permanent vacancies were in existence when the petitioners were given ad hoc promotion to the post of Inspector(Woman). It is admitted in the counter-affidavit that on 27.9.1982 and on 1.12.1982 two permanent vacancies fell vacant in the post of Inspector(Woman). It is also stated in the counter-affidavit that a decision was taken that the next 2 vacancies would go to women, and "as a sequel to the earlier decision the petitioners were promoted on ad hoc basis". Thus, in the counter-

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affidavit, there is a clear admission/there were two permanent vacancies. Rule 19(i), under which the ad hoc appointments were admittedly made, inter alia states that in special circumstances when there are no approved names on promotion lists, and vacancies exist, the Commissioner of Police, may promote suitable officers in order of seniority to next higher rank temporarily. It is explicit in the said Rule that ad hoc promotions can be made only if vacancies exist and the Commissioner of Police is entitled to promote suitable officers in order of seniority to the next higher rank. It is the respondents' own case in the counter-affidavit that but for the utilisation of two vacancies which occurred on 27.9.1982 and 1.12.1982 for promoting male Sub-Inspectors(Ex), Sub-Inspector (Woman) should have been considered for promotion in those vacancies. That the petitioners were fit and suitable for promotion in order of seniority is exemplified by the fact that they were given ad hoc promotions in accordance with Rule 19(i). It is thus clear that the petitioners were promoted as Inspector (Woman) on 18.3.83 and 13.5.83 respectively on merits and in their own right and they were promoted against permanent vacancies.

7. It is not the case of the respondents that on 18.3.1983, Mrs.Praveen Dutt and on 13.5.1983, Mrs.Nirmal Verma were in any manner disqualified from being promoted as Inspector(Woman). It is also not the case of the respondents that the petitioners were not the seniormost amongst Sub-Inspectors(Woman). It is also not the case of the respondents that two posts on which the two petitioners were appointed on ad hoc basis were required to be filled up by the method of direct

8. Rule 18(iii) states that no member of the subordinate rank who is promoted from one rank to another by a departmental promotion committee or is directly appointed shall be confirmed unless he has satisfactorily completed the period of probation and a clear vacancy against a permanent post is available. Rule 4 defines "subordinate ranks" to mean the member of the Police force of and below the rank of the Inspector. Rule 20 inter alia provides that the rules laid down for the admission of names to promotion lists and confirmations as for male police shall apply mutatis mutandis to the women police but tests and interviews for them shall be held by departmental promotion committees for purposes of selection separately. A combined reading of the aforementioned Rules indicates that the promotion is to take place on the recommendations of a departmental promotion committee and the confirmation thereto will take place upon fulfilment of conditions laid down in sub-rule(iii) of Rule 18.

9. Having regard to the facts and circumstances of these cases, we direct that the respondents shall convene a departmental promotion committee to consider the cases of the petitioners for promotion to the posts of Inspector(Woman). The committee shall proceed on the basis that on 18.3.1983 and on 13.5.1983, two permanent vacancies in the post of Inspector(Woman) had come into existence and those posts were to be filled up on regular basis by the process of promotion and the promotion was to be confined to Sub-Inspectors (Woman). Thereafter, the authority concerned shall pass necessary orders regarding confirmation

in the light of the recommendations of the departmental promotion committee.

10. With these observations, these applications are disposed of but without any order as to costs.

B.N. Dhaoniyal
(B.N. DHAONIYAL)
MEMBER (A)
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S.K. Dhaon
(S.K. DHAON)
VICE-CHAIRMAN(J)