

29

Central Administrative Tribunal
Principal Bench

O.A.No.1730/2004

Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Smt. Chitra Chopra, Member(A)

New Delhi, this the 27th day of October, 2006

Arati Kachroo,
W/o Shri K.L.Kachroo,
268, Deshbandu Appartments,
Kalkaji,
New Delhi – 110 019.

... Applicant

(By Advocate: Sh. S.Sunil, proxy for Sh. C.Harishankar)
Vs.

Union of India,
Through The Secretary,
Ministry of Statistics & Programme Implementation,
Sardar Patel Bhavan,
New Delhi.

... Respondent

(By Advocate: Sh. Rajesh Katyal)

ORDER

By Justice B. Panigrahi, Chairman:

Applicant questioned about the legality, propriety and validity of the order dated 25.11.2003 passed by the respondents whereby her representation stood rejected.

2. The relevant facts leading to this application are as follows:

2(a) The applicant's sole grievance in this application is that her case was not considered for regularization as Senior Investigator (for short as 'SI') from the date of her ad hoc appointment. Notwithstanding several reminders she communicated to the respondents, no response came from the other end. Thereafter, she filed a case before this Tribunal

B.

- 2 -

whereupon the respondents mechanically rejected her representation. The main basis for rejection of her representation was that she opted as direct recruit from 29.9.1984 and, therefore, her case could not be considered for regularization in the grade of SI. Prior to such option, though she might have worked on ad hoc basis but such service cannot be taken for the purpose of her promotion as a departmental candidate. It is her further case that review DPC was conducted on 14.5.1987 where the applicant was treated as departmental candidate but the fact remains that since she opted to be treated as direct recruit, her ad hoc appointment prior to 1984 would not confer any right. There was some procedural lapse in the year 1983 and, therefore, a review DPC was convened in the year 1987. In the review DPC, though the respondents considered the cases of the departmental candidates but conspicuously left out the applicant's case on the ground that she was a direct recruit as SI.

3. In the year 1986, there were as many as 58 posts vacant. The procedure for regularization is 50% by direct recruit and 50% by departmental promotee. 50% of the 58 posts come to 29 whereas the respondents have only taken 29 as the total number of posts available for SI in the year 1987 DPC.

4. In the reply, the respondents have stated that the applicant was appointed as Junior Investigator on 10.05.1972. She was promoted as Senior Investigator on ad hoc basis with effect from 29.6.1977. The review DPC meeting was convened in May, 1987, in which, the applicant's case was considered but not

B

- 3 -


recommended. On the recommendation of UPSC, the applicant was appointed as direct recruit SI since 1984. The applicant having opted to be treated as direct recruit SI, her case for promotion to the post of SI could not be considered. A review DPC was held on 17.10.2000 to implement the Tribunal's Judgement dated 16.2.2000 in OAs being OA 390/96, OA 710/96 and OA 1144/1996. On the recommendations of the review DPC, 15 candidates were regularized in the grade of SI with effect from the date of their ad hoc promotion or the date they had completed 5 years regular service in the grade of Junior Investigator. It is worthwhile to mention that the applicant was also one of the respondents in all the abovesaid three OAs. The Committee was aware of the number of representations received from the direct recruits for reserving 50% of vacancies which have arisen due to implementation of Narendra Chadda's case for direct recruits. The Committee viewed that since the posts could not be filled up by direct recruit on year-to-year basis on which the vacancies arose the posts per force have to be kept vacant posts which have to be carried forward for the direct recruits.

5. Upon hearing the learned counsel appearing for both the parties and on perusal of the grounds stated in the application as well as the reply, the short question comes to the fore for consideration is as to whether the ad hoc period of service rendered by the applicant as SI could be taken into consideration or not. She never claimed to be a departmental candidate prior to appointment of SI. She opted to become to be a direct recruit and



-4-

appeared for the test and accordingly she was selected. Once she was selected as direct recruit, thereafter, she cannot claim of her prior service even though she might have worked on ad hoc basis. Once such period is excluded, the applicant could not have been considered for further promotion from the departmental quota. Accordingly, we do not find any vulnerability in the order so as to warrant our interference. Since the OA is devoid of merit, it is accordingly, dismissed.


(Smt. Chitra Chora)
Member(A)


(B. Panigrahi)
Chairman

/rao/