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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 2667/92.

Date of decision: 18.7.1995.

Hon'ble Shri N.V. Krishnan, Vice-Chairman (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Smt. Ganga Devi Mittal,
w/o late R.K. Mittal,
D/Man Grade III (New Grade II),
Department of Telecom, New Delhi
r/o G-3, Netaji Nagar,
near Sarojini Nagar Depot,
New Delhi-110023.

.. Applicant

(By Advocate Shri M. Tahir Siddiqui)

versus:

1. Union of India
through the Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. The Director, Govt. of India,
Deptt. of Personnel Training
(Surplus Staff Cell),
Room No. 618, Nirvachan Sadan,
Patel Chowk, New Delhi-110 001.

3. The Officer (Admn. & Tech.),
Telecom, Electrical Circle,
Samrat Bhavan, Ranjeet Nagar,
New Delhi.

.. Respondents

(By Advocate Shri M.K. Gupta)

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan, Vice-Chairman (A)

The applicant was appointed initially in the Ministry of Health as L.D.C. in October, 1972 on compassionate grounds, as her husband died in harness while he was working as Senior Draftsman. She was later on appointed as Tracer in the same Ministry in October, 1972 and was confirmed in the said post in October, 1974. Thereafter, while working as Draftsman Grade III in the payscale of Rs. 1200-2040 in the Central Public Health Environment and Engineering Organization in the Ministry of Urban Development

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i.e. Respondent No. 1, the post of Draughtsman Grade III was declared surplus in 1989, consequent upon the recommendations made by the Staff Inspection Unit. In terms of the scheme for absorption of surplus staff, the applicant made a request for alternative placement in the Department of Tele-communication. She was relieved on 20.10.1989 and she joined the 3rd respondent in the office of Telecom, under the Ministry of Tele-communications. The applicant has principally the following two grievances:-

- (i) In the office of the 3rd respondent she has been assigned seniority as a Grade II Draftsman only w.e.f. the date she joined there and the service rendered earlier by her has not been counted for seniority.

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- (ii) In the Grade/ she was absorbed in the Department of Telecommunications, she is being given the benefit of the pay-scale of Rs. 1200-2040 only whereas other Draughtsman Grade II in the Department are in the payscale of Rs. 1400-2300.

2. In the circumstances, this D.A. has been filed for directions to the respondents to fix the applicant's seniority in the Department of Tele-communications keeping in view the service rendered by her in the same grade from 30.9.1972 when she was first appointed as a qualified Tracer in the Central Health Ministry in Grade III and further, direct the respondents to pay her ^{the} scale of Rs. 1400-2300 w.e.f. 20.3.1989 when she joined as Draftsman Grade II.

3. The applicant has also prayed for giving her arrears ^{the} in/ revised payscale in accordance with the 3rd and 4th Pay Commissions' Report w.e.f. 20.3.1989. The last prayer made is that the respondents No. 3 be directed to keep open the promotion avenues for the applicant and grant her all service benefits available to a permanent Govt. employee.

4. The respondents have filed a reply justifying their action.

5. We have heard the learned counsel. In so far as the issue of seniority is concerned, the learned counsel for the respondents has drawn our attention to a Full Bench judgment of the Principal Bench in P.K. Das v. UOI & Ors. (1992 (19)ATC 443) wherein an identical matter concerning the seniority of a surplus employee absorbed in a department was examined. It was held that in terms of the scheme, such employees are not given the benefit of past service for seniority because it involves serious repercussions in a new organization. It also held that such employees who join the new department as fresh entrants would be treated as fresh entrants in the matter of their seniority, ^{scheme} promotion etc. The/ has been notified by the Ministry of Personnel in their O.M. dated 1.4.1989 (1989) 11 ATC (3) Statute Section).

5. The learned counsel for the applicant submitted that, perhaps, this consideration would not apply to an employee who has been given employment under compassionate scheme. We are unable to see how such a conclusion can be drawn, ^u if ^u compassionate appointment is given/ ^{ans} that employee also became surplus ^u and ^{got} absorbed in another department under the scheme. In any case, the scheme does not provide for any separate treatment of such employees.

6. In the circumstances, the claim for seniority for past service has no merit.

7. In so far as the payscale is concerned, we notice that the scheme provides for re-deployment in a post carrying a payscale matching his current payscale (Para 9.21 of the Scheme). As mentioned above, In the Urban Development Department, the applicant was a Grade III Draughtsman in the payscale of Rs. 1200-2040.

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In the Department of Telecommunications where she was absorbed, the post of Draughtsman Grade II was as in the payscale of Rs.1200-2040. As far/this absorption is concerned, this is entirely in order and this cannot be faulted. However, the reply of the respondents/^{shows} that subsequently, by an order of this Tribunal in O.A. No. 129/87, the payscale of Rs.1400-2300 has been given to Draftsman Grade II. Accordingly, by an order dated 19th October, 1993 the payscale of Draftsman Grade II appointed after 1978 has been revised to Rs. 425-700 (Rs.1400-2300) w.e.f. 1.1.1986. It is also ordered that the actual monetary benefits accrue to these Draftsmen from the date of appointment to the grade. We are unable to see how the benefit of this order will not accrue to the applicant. Under the circumstances, we are of the view that the applicant ^{who} ~~is~~ also working in Grade II Draftsman from 20.10.1989, is entitled to get the benefit in terms of the order dated 19th July, 1993.

8. The relief in respect of grant of arrears of revised payscale in accordance with the orders of Government based on the recommendations of the Fourth Pay Commission are barred by limitation but this will not prevent the applicant, if she so chooses, to make ^a ~~the~~ representation to the respondents, nor it will prevent the respondents from granting her/ ^{such arrears} if they so chose.

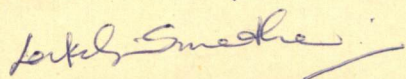
9. The only other observation that we are making ^{is} that the applicant shall be ^{eligible to count} the earlier service rendered before she was absorbed in the Ministry of Telecommunications for the purpose of pensionary benefit and other retiral benefits. There is no prohibition for giving such consideration in the scheme relating to absorption of surplus employees

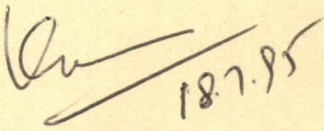
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referred to above.

10. In the circumstances, the O.A. is disposed of with the directions to the respondents to (i) grant the payscale of Rs 1400-2300 to the applicant in terms of the order of 19th July, 1993 within a period of 3 months from the date of absorption and (ii) count the past service before she joined the Department for retiral benefits. No costs.


(Smt. Lakshmi Swaminathan)
Member (J)


(N.V. Krishnan)
Vice Chairman (A)