

2.

5-12-97.

PH O. A = 1186/92

M. P. = 1760/92

M. P. = 1829/92

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Present: Smt. Romila Chopra, applicant
present in person.

Shri P.H. Ranchandani, learned
Senior Counsel for the respondents.

Applicant submits that Mrs Raj
Kumari Chopra is no longer represents her
and she would, therefore, argue the case
personally. Learned Counsel for the respondents
undertakes to submit the relevant records
i.e. D.P.C. Proceedings file and the file
on which decision was taken not to
accord relaxation.

Both ^{both sides} heard. Reserved for
orders. By the Bench comprising of Hon'ble
Smt. Lakshmi Swaminathan, M(J) and Shri
R.K. Ahuja, Member (A).

By Order

M

Court officer,

Court No - IV

G-1-98

order pronounced today is
open court no 11

R.D.K.
V. S. A.

CAT/71

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1186/92
T.A. No.

199

DATE OF DECISION 6-1-1996

Smt. Romila Chopra

Petitioner

Applicant present in person

Advocate for the Petitioner(s)

Versus
UOI M/O Human Resources

Respondent

Sh. P. H. Ramchandani

Advocate for the Respondent

CORAM

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

The Hon'ble Shri R. K. Ahooja, Member (A)

1. To be referred to the Reporter or not? *Yes*

2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

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O.A. 1186/92

New Delhi this the 6th day of January, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Mrs. Romila Chopra,
W/o Mr. Promodh Chopra,
R/o D-1, Nizamuddin East,
New Delhi.

... Petitioner.

Applicant in person.

Versus

Union of India, through

1. The Secretary,
Govt. of India,
Ministry of Human Resource Development,
(Dept. of Women & Child Development),
Shastry Bhawan,
New Delhi.
2. The Executive Director,
Central Social Welfare Board,
B-12, Tara Crescent,
Institutional Area,
South of IIT,
New Delhi. ... Respondents.

By Advocate Shri P.H. Ramchandani, Sr. Counsel.

O R D E R

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

The applicant has filed this application u/s 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to grant her seniority from the initial date of appointment with pay of the post and further directions to the respondents to hold review DPC to the post of Deputy Director and consider her along with others for that post.

2. The brief facts of the case are that the applicant was appointed as Project Officer w.e.f. 12.3.1983 after due selection which was made for the post

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of Assistant Director Grade-I. The appointment of Project Officer was made on a consolidated pay of Rs.1200/- per month for a period of one year by Memo dated 12.3.1983 (A-1). Subsequently, the respondents had passed memorandum dated 20.2.1984 whereby she was appointed in a temporary post of Project Officer on a pay of Rs.700/- per month in the scale of Rs.700-1300 (pre-revised). Subsequently, this order was corrected by the letter dated 29.2.1984 in which she was again given a consolidated pay of Rs.1500/- per month for a period of one year instead of the pay scale of Rs.700-1300. Later by the memorandum dated 14.8.1987 she was appointed to the same temporary post of Project Officer in the scale of Rs.2200-4000. According to the applicant, she had been duly selected by the Selection Committee which had met for selection to the post of Assistant Director Grade-I in 1983 but she was offered the post of Project Officer for one year. She, therefore, claims that she has been discriminated inasmuch as she has not been considered for promotion as Deputy Director, after putting nearly 9 years of service, when her juniors have been considered in 1991.

3. The respondents in their reply have submitted that they had advertised for two posts of Assistant Director Grade-I in September, 1981. The Selection Committee had placed the applicant at Serial No. 3 in the panel and the first two persons in the order of merit were selected and appointed to the posts of Assistant Director Grade-I. At that time because of increased work-load in the Voluntary Action Bureau (VAB), a decision had been taken to create a post of Project Officer on a consolidated

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✓ salary of Rs.1200/- per month. The applicant who was at Serial No. 3 in the aforesaid panel prepared, in pursuance of the advertisement for 2 posts of Assistant Director Grade-I was offered appointment on a consolidated salary of Rs.1200/- per month for a period of one year. Later, when the post of Project Officer was made regular, it was filled through fresh advertisement issued in April, 1987. The Selection Committee had selected 3 names for the said posts and the applicant was at Serial No. 1. In pursuance of this empanelment, the applicant was offered the post of Project Officer in the scale of Rs.2200-4000 and she joined that post w.e.f. 14.8.1987. The eligibility for promotion to the post of Deputy Director was 5 years qualifying service. The respondents have, therefore, submitted that since the applicant had been appointed as Project Officer on regular basis w.e.f. 14.8.1987, she was not qualified for being considered for the post of Deputy Director in October, 1991. The respondents have also submitted that this O.A. is barred by limitation and, therefore, is not maintainable. They have stated that the applicant had submitted a representation on the subject matter in issue in this application which had been disposed of by the competent authority as far back as 18.4.1990 (Annexure A-8). The applicant had thereafter filed another representation dated 1.10.1991 which has been disposed by memo dated 15.11.1991 which has been challenged in this application.

4. The applicant has filed a rejoinder more or less reiterating the same averments in the application. She has submitted that as the duties and responsibilities of the Project Officers are similar to that of the

Yours

Assistant Directors Grade-I and carry the same scale of pay, those posts should be equated and be included in the category for promotion. She has also urged that since she has been selected and appointed to the post of Project Officer w.e.f. 12.3.1983, her seniority and eligibility for next promotion as Deputy Director cannot be denied. She has also stated that the DPC which was held in October, 1991 had considered her juniors for promotion to the post of Deputy Director and she has, therefore, been illegally discriminated. She has also relied on a number of judgements which have been referred to in the pleadings.

5. We have carefully considered the pleadings and the submissions made by the applicant and the learned counsel for the respondents. We have also seen the original relevant records pertaining to the selection and appointment of the applicant and the DPC proceedings. The respondents have also annexed the minutes of the DPC held on 16.4.1982 to their reply for selection of the candidates for the post of Assistant Director in which the applicant's name is at Serial No. 3 in the order of merit. In the memorandum dated 12.3.1983 the applicant has been offered a temporary post of Project Officer in the Consolidated Salary of Rs.1200/- for a period of one year. This appointment cannot, therefore, be taken as an appointment for the post of Assistant Director Grade-I nor can it be taken to be a regular appointment as Project Officer as claimed by her. This becomes further clear when we consider the memorandum issued by the respondents dated 20.2.1984 read with the letter dated 29.2.1984 offering the applicant appointment again on the post of Project Officer for a period of one year. It was only in 1987 that the

✓ applicant had got appointment as Project Officer w.e.f. 14.8.1987. In the memorandum issued by the respondents dated 18.4.1990, they have rejected her claim for counting the period of service on a consolidated salary as being against the rules and this action of the respondents cannot be faulted. Admittedly, the period of service required in the Assistant Director's grade or Project Officer for promotion to the post of Deputy Director is 5 years. The respondents have stated that there were 4 regular and 1 short term vacancy occurring in 1991 for which the DPC had considered the eligible candidates. They had considered 8 officers and the applicant was at Serial No. 4, the DPC had recommended waiver of the minimum of 5 years service in view of her outstanding record of service but the competent authority did not agree to the same. We have seen the records. We find that there was no decision to relax the rules in favour of the applicant by the competent authority. Admittedly, the applicant had not completed 5 years of service in the lower grade as Project Officer or Assistant Director Grade-I. We find that as there was no decision to relax the rules in favour of the applicant by the competent authority and she was not the senior most officer, the decision of the competent authority not to accept the recommendations of the DPC is neither unreasonable nor arbitrary justifying any interference in the matter. The applicant has been selected in a subsequent DPC and given promotion as Deputy Director in 1994.

6. The applicant's contention that her services as Project Officer from 12.3.1983 when she was appointed on yearly basis should be counted, has been correctly rejected by the respondents because the recruitment rules require

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that her services as Project Officer (VAB) or Assistant Director Grade-I should be on regular basis. The applicant, therefore, does not have any claim for appointment as Deputy Director from an earlier date when she does not fulfil the eligibility conditions. Similarly her claim for seniority from the initial date of appointment as Project Officer w.e.f. 12.3.1983 is also not tenable, as it was a contract appointment for a period of one year and she has been appointed regularly only with effect from 14.8.1987. In this context, the cases relied upon by her are not relevant. Apart from the merit, we also find that this application is barred by limitation as the applicant had already received the memorandum dated 18.4.1990 rejecting her representation to count her period of service for purposes of seniority. In the facts and circumstances of the case, the subsequent memo dated 15.11.1991 on the basis of which she has stated that this application is within limitation cannot also assist her in the facts and circumstances of the case.

7. In the result, this application fails both on merits and limitation. It is accordingly dismissed. No order as to costs.

~~R.K. Ahooja~~
(R.K. Ahooja)
Member (A)

SRD

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)