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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1104/93

New Delhi: this the 16 day of February, 2000.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Mrs. Nandi Kunwar,
W/o Kunwar R.P. Singh,
R/o D-625, Saraswati Vihar,
Delhi-34

... Applicant.

(By Advocate: Mrs. C.M. Chopra)

Versus

1. Union of India,
through the Secretary,
Ministry of Education,
Shastri Bhawan,
New Delhi.
2. The Directorate of Education,
through
the Secretary,
Education Department,
Delhi Administration,
Delhi.

(By Advocate: Shri Vijay Pandita).

ORDER

HON'BLE MR. S. R. ADIGE

Heard both sides.

2. Applicant was promoted as Education Officer which is the feeder post for promotion as Dy. Director Education, on 1.8.83. Pursuant to order dated 29.1.87 in OA No. 217-A/86 and OA No. 491/86 respondents issued a seniority list of ADE/EO on 30.10.87 in which she was shown at Sl. No. 56. That seniority list was challenged in OA No. 1862/87 sita Ram Sharma Vs. UOI & Ors. and was quashed by order dated 26.4.89 with a direction to respondents to prepare the seniority list of EO's afresh. Pursuant to this direction, respondents prepared and circulated a fresh seniority list on 28.12.89 (Annexure-P/1) in which applicant was shown at Sl. No. 54, which she accepted.

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3. Applicant contends that on finalisation of the aforesaid seniority list on 28.12.90 she pointed out to the concerned authorities that Ms. Usha Menon (Sl. No.55), Mr. Y.P.Purang (Sl. No.58) and Mr. N.S.Tolia (Sl. No.59) were getting more pay than her although they were her juniors, but despite several representations this anomaly was not corrected, and meanwhile she superannuated on 30.6.92.

4. Respondents in their reply state that pursuant to applicant's position at Sl. No.56 in the seniority list dated 30.10.87 she could not be promoted as Dy. Director Education, but upon the issue of the final seniority list dated 28.12.89 in which her position was shown at Sl. No.54, she was promoted as Dy. Director Education w.e.f. 25.1.90. Respondents state that this promotion was only adhoc because in OA No.1888/87 the Tribunal by its order dated 12.1.88 had granted stay to the effect that promotions made to the post of Dy. Director Education would be treated purely as adhoc. This stay order was vacated only on 8.8.91, but on the same day the Tribunal granted another stay in OA No.933/88 filed by applicant herself, in which respondents were directed not to make regular appointment to the post of Dy. Director Education. Respondents state that the aforesaid stay order came to an end only on 20.1.92 with the dismissal of OA No.933/88 and thereafter the matter of regular promotion to the post of Dy. Director Education was taken up with UPSC. The UPSC was in a position to hold DPC meeting on 22.10.92, but meanwhile applicant superannuated on 30.6.92 and hence could not be appointed as Dy. Director Education on regular basis.

5. Respondents do not deny in reply to paras 4(iv) and

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4(v) of the OA that Mrs. Usha Menon, Shri Y.P.Purang and Shri N.S.Tolia were promoted as Dy. Director Education on adhoc basis, based on the earlier seniority list dated 30.10.87 in which applicant was shown junior to them. That seniority list dated 30.10.87 was quashed and set aside, and respondents prepared afresh seniority list dated 28.12.89 in which applicant was shown senior to the above named 3 persons and on the basis of which applicant was also promoted as Dy. Director Education on 25.1.90.

6. When applicant was promoted as Dy. Director Education on 25.1.90 the aforesaid 3 persons who were junior to her had already been promoted as Dy. Director Education on the basis of the seniority list dated 30.10.87 which was subsequently quashed and set aside, and would have been drawing more pay as Dy. Director Education than applicant. Under the circumstance, when applicant was promoted as Dy. Director Education on 25.1.90 her pay should have been fixed not less than what was drawn by her immediate junior.

7. In the result this OA succeeds and is allowed to the extent that respondents should fix applicant's pay as Deputy Director Education on 25.1.90 not less than what was drawn by her immediate junior on that date. Arrears should be calculated and paid to applicant. Applicant's retiral benefits should also be recalculated and paid to applicant along with arrears. These directions should be implemented within 4 months from the date of receipt of a copy of this order. No order as to costs.

Kuldeep Singh
(KULDEEP SINGH)
MEMBER(J)

Arvadige
(S.R. ADIGE)
VICE CHAIRMAN(A).