

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 8TH DAY OF MAY ~~2002~~ 2002

Original Application No.684 of 1998

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Smt.Geeta Kumari Chaudhary,
Nursing Sister, Cancer Sansthan,
North Eastern railway, Varanasi.

... Applicant

(By Adv: Shri S.K.Mishra)

Versus

1. The Union of India through
General Manager, North Eastern
Railway, Gorakhpur.
2. The Divisional Railway Manager
North Eastern Railway, Varanasi
3. The Senior Divisional Personnel Officer
North Eastern Railway, Varanasi
4. Smt. Sangeeta Rani Chaudhary
Matron, Cancer Sansthan, North
Eastern Railway, Varanasi.

... Respondents

(By Adv: Shri K.P.Singh)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act 1985 applicant has prayed for adirection to the respondents to give the same benefit of promotion as Matron to the applicant, whioch has been given to her junior Smt. Sangeeta Rani Chaudhary with all consequential benefits.

The applicant was recruited as Staff nurse under Special Recruitment for SC community on 17.10.1990 and was assigned position over respondent no.4 ⁱⁿ to the select list(Annexure 7). The applicant qualified for the post of Staff nurse as a result of selection held and finalised by letter dated 20.10.1995 as Nursing sister. The applicant was however not called for, ^{in participation for selection, under} notification issued for

selection of Matron in the grade of Rs 2000-3200, which was issued on 14.12.1995 and her junior respondent no.4 ^{is} included in the list. The applicant claims that since two posts were reserved for SC in the ^{the} notification, six candidates belonging to SC category should have been called for selection, whereas the respondents called for only three persons. After the selection for the post of Matron Smt. Sangeeta Rani Chaudhary could not qualify as her name did not appear in the result declared vide letter dated 29.2.1996. However, she was picked up ^{for} her promotion against existing post as Matron. Thus, the applicant has claimed that she has been denied the right to be considered for selection to the post of Matron.

We have heard the arguments of Shri S.K. Mishra counsel for the applicant and Shri K.P. Singh counsel for the respondents.

The learned counsel for the respondents at the outset raised the issue of limitation. He submitted that while the notification was issued on 14.12.1995 the applicant has filed this application only in 1998. We find that this OA was decided earlier by a Bench by order dated 9.12.1999. A review application no.5/00 ^{was} has been filed before the said bench, and the earlier order dated 9.12.1999 ^{was} ~~has been~~ reviewed and recalled. In the earlier ~~order~~ ^{order} the contention of the respondents ^{was} that for selection to the post of Matron ~~that the~~ candidate should have completed 5 years. Since the applicant has not completed the requisite period of services, ^{was} Therefore, she was not called and the OA was dismissed as lacking in merit. Later on in review it was found that because of non production of relevant orders some debatable points could not be touched earlier. Thus the order of dismissal ~~in~~ ^{of} the OA was recalled. We also find from a supplementary affidavit filed by the applicant that the seniority ^{was} ~~of~~ of the applicant was modified ^{under} the order dated 9.6.2000 by which seniority list of nursing sister dated 12.7.1999 has been modified and the applicant ^{was} ~~has been~~ granted promotion as nursing sister from 23.11.1995 which is the date on which her junior Smt. Sangeeta Rani Chaudhary had been given promotion as nursing sister. Thus, the

by the respondents as late as ^{on} 9.6.2000 and on account of this rejection ~~rejection~~ of the present application of the applicant on the ground of limitation would ^{be} cause grave injustice to the applicant.

The next submission of the learned counsel for the respondents ^{would be} that at the time the ^{consideration} ~~modification~~ for the selection of Matron was ^{done} ~~issued~~, only Smt. Sangeeta Rani Chaudhary had completed 5 years, while the applicant had completed less than 5 years of service. In this connection, the applicant has placed ^{reliance on} para 203.2 of Indian Railway Establishment Manual, which provides as under:-

"In case a junior employee is considered for selection by virtue of his satisfying the relevant minimum service condition all person senior to him shall be held to be eligible, notwithstanding the position that they do not fullfil the requisite minimum service conditions."

It is clear that as a consequence of grant of promotion on same date to the applicant, as was given to Smt. Sangeeta Rani Chaudhary ^{and} ~~as~~ also the provision of para 203.2 of the I.R.E.M, the applicant had ^{as} ~~claimed~~ to be considered for the post of Matron at the time of selection held in December 1995. Since she has been deprived of that opportunity, we consider it proper in the interest of justice to direct the respondents to hold a review DPC of selection held for the post of Matron based on notification in December 1995 and consider the applicant also alongwith other candidates, and in case the applicant succeeds, grant her seniority over her junior with consequential benefits. The order shall be complied with within three months. No order as to costs.