

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH-ALLAHABAD.

T.A. No. 1295 of 1987.

Smt. Phool Bagai..... Applicant.

Versus

The Union of India & others..... Opposite parties.

Hon'ble Mr. Justice U.C.Srivastava- V.C.

Hon'ble Mr. K. Obayya - A.M.

(By Hon'ble Mr. Justice U.C.Srivastava- V.C.)

The applicant was appointed as Telephone Operator in the year 1952. She was also confirmed on 1.1.1955. As her husband was resident of District Aligarh she ~~was~~ opted for transfer to Aligarh i.e. in Agra Circle and her request was accepted and she was transferred to Aligarh on 20.5.63. <sup>l</sup> In the gradation list which was corrected upto 1st July, 1969, the name of the applicant was shown at serial number 632 and date of entry in the department was shown as 12.11.52 and the date of confirmation is 1.1.1955. The name of opposite party no. 4 was shown at serial no. 1313 and the date of entry in the department is 20.12.67 and the date of confirmation is 1.3.64 i.e. after the applicant.

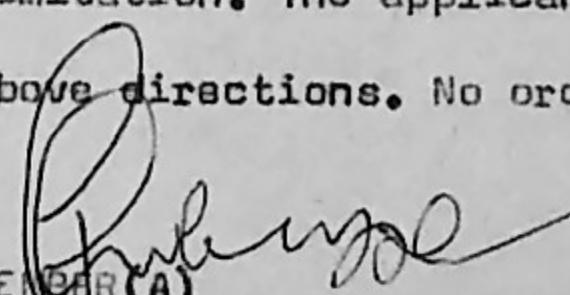
Gradation list was again corrected upto 31st March, 1975 in which the applicant was at serial no. 360 and the opposite party was 4 was at serial no. 1085. The applicant was however promoted to the next grade known as Junior Supervisor with effect from 1.6.74 and her appointment ~~was~~ against promoted post was made regular w.e.f. 1.6.1974. Abruptly without issuing notice or without giving her any opportunity an order on 1.11.82 was issued reverting her to the post of Telephone Operator, against which she filed the writ petition which has been transferred to this tribunal and an interim order was passed by the High Court.

The respondents have resisted the claim of the applicant praying that the applicant was transferred to Aligarh on her own request, as such in view of para 38 of P. & T.

Manual Vol. IV, she was to get bottom seniority and it appears that the same was not noticed and ~~for~~ why the applicant was promoted and the respondents discovered the mistake some after 8 years, when passed this order.

After promotion the applicant was regularised but the confirmation date could not have been changed and fresh confirmation order has been passed after several years and that the Government has also tried to justify the same.

Certain rights were made to the applicant and as such those rights were being affected. Order of demotion should not have been passed without giving an opportunity of hearing, even otherwise the applicant worked for 8 years without any objection even by the respondent who could have agitated the matter within limitation which was not done and against which she after considerable period is being deprived of a right. Even the principle of estoppel as such does not apply but it cannot be ignored. No one is to suffer for the latches and the mistakes committed on the part of the Government and that too certain rights accrued in favour of the applicant and accordingly this application deserves to be allowed and the reversion order dated 1.11.82 is quashed. The applicant will be deemed to be continued in service on the said post and in case there is no vacancy available, it will be for the respondent to create ~~an~~ cadre post for the applicant and whenever vacancy arises, she should be taken in the cadre post without affecting the seniority and position which could not have been disturbed by the Department after considerable period i.e. much after expiry of period of limitation. The applicant shall stand disposed of with the above directions. No order as to the costs.

  
MEMBER (A)

Dated: March 26, 1992.

(DPS)

  
VICE CHAIRMAN.