

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

T.A. No. 1465/87 (W.P. 1987/84)

Smt. M.Yadav..... Versus
Union of India and others. Respondents.

(Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K. Obayya, A.M.)

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

The applicant filed a writ petition before the High Court which by operation of law has been transferred to this Tribunal for adjudication. She prayed that a mandamus be issued commanding the O.Ps. not to treat the post of lecturer in Home Science as reserved post and the O.P. may be directed to promote her as a permanent lecturer in Home Science. A prayer for certiorari was also made for quashing the appointment if any which has been made for a member of Scheduled Tribe. The applicant when she filed the writ petition was working as a lecturer in N.E. Railway Girls Intermediate College, Gorakhpur from 16.8.83 which institution was earlier a Primary School and later on was upgraded to High School and in the year 1968 the applicant was given L.T. grade on 24.9.75. In the year 1979 the institution was upgraded up to Intermediate College in six subjects, Hindi, Economics, Civics, Sanskrit, History, and Sociology, were recognised subjects in the institution. In 1983 recognition was given for appointment of lecturer of Home Science and English and two new posts ^{were} ~~had~~ created which has given rise to the instant suit.

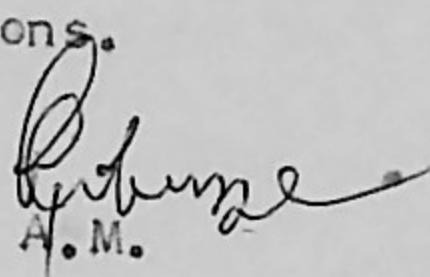
2. It appears that the applicant was appointed as lecturer in Home Science but according to the respondents her appointment was only temporary

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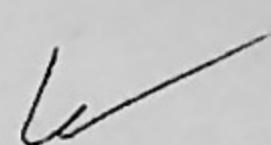
and adhoc and it came to an end on 14.2.84 on which date Smt. Mariya Topo was appointed after due selection on regular basis. According to the respondents there were 8 ^{posts} ~~seats~~ and the ^{posts} ~~seats~~ which were meant for the member of Scheduled Tribe was given to the member of General community, as the member of Scheduled Tribe was not qualified and that is why the subsequently vacant ~~seat~~ was given to the member of Scheduled Tribe though it was not exactly on the roaster point and there was some disturbance to the roaster point for making appointment to the post of English and Economics lecturer. The two posts which were subsequently created were of English and Home Science and another teacher was appointed in English who was senior to the applicant and at that time the applicant could not have been appointed and one post was reserved for Scheduled Tribe which was earlier not given and that is why this particular post was given to the member of S/T.

3. Learned counsel for the respondents has brought to our notice that the applicant has thus subsequently been selected and appointed as a lecturer on regular basis vide order dated 6.7.89 a copy of which has been produced before us. With the result that part of the relief has been granted to the applicant. The only question which remains for consideration is as to whether the applicant will get seniority or Mrs. Mariya Topo who was appointed lecturer in Home Science in fact was not a member of Scheduled Tribe. In view of the fact that one ^{post} ~~seat~~ was to go to the member of Scheduled Tribe and Mrs. Mariya Topo though it was not statutory on the same point

has already been given the post which otherwise would have gone to the member of Scheduled Tribe. In case the post ~~which~~ ^{would} have been carried forward being a member of general community who was appointed, although it is very clear but it has not been stated that the post was carried forward that is why the substantial justice has been done in the case and the applicant has been promoted. No further relief can be granted to the applicant. It is for the applicant to approach the authority and the authority may consider the case of seniority vis-a-vis to decide the case in accordance with law. The application stands disposed of with these observations.



A. M.



V.C.

Dated: Allahabad
2nd Sept., 1992

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