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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 576 of 1987

Km. Sushila Ahuja & another Applicant.

Versus

Union of India & others Respondents.

Hon'ble S. Zaheer Hasan, V.C.
Hon'ble Ajay Johri, A.M.

(Delivered by Hon. Ajay Johri, A.M.)

3/ The applicants Km. Sushila Ahuja and Smt. Tara Devi have filed this application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging the orders dated 18.7.1986 and 1.7.1987 passed by the Deputy Collector (P&E) promoting certain persons and reverting the applicants from the officiating position of Inspectors to that of Lady Searcher and praying for a direction to be issued to regularize them as Inspectors.

2. The applicants were promoted as Inspectors in February and May, 1985 respectively on ad hoc basis along with three others. They had appeared in the written examination, viva-voce, physical test and they allege that they were successful in these tests. They were also sent for training courses. They have presumed these exercises as preliminaries to their confirmation. They were, however, not regularized while the others, who were also promoted ad hoc along with them, got regularized on 18.7.1986. Ultimately on 1.7.1987 they were reverted back to their substantive post of 'Lady

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Searcher'. The respondents have clarified the position. They have said in their counter that against six posts of Cost Recovery Inspectors, the applicants along with some others were promoted on seniority-on-suitability basis on ad hoc basis. They were not considered suitable by the Departmental Promotion Committees for regular promotion in the year 1984, 1986 and 1987, and therefore, they were reverted from their ad hoc appointments on 1.7.1987. Their ad hoc appointment was purely provisional and did not give them any right for continuance. They could be reverted any time without assigning any reason. The training etc. given to them were not for confirmation but every officer, who is promoted as Inspector, is given this training.

3. We have heard the learned counsel for the parties. The learned counsel for the applicants contended that the respondents were blowing hot and cold. In their reply they have said that the applicants appeared before the Departmental Promotion Committee and were not found fit, hence the records of service were not examined and they could not be brought on select panel, but they were placed on ad hoc panel on seniority basis. On promotion they were not awarded adverse remarks and their conduct was not bad but they were not regularized. DPC never considered the reports, hence what could be the rationale for such a decision. Then if they were not found suitable why were they continued. According to the learned counsel the whole matter, therefore, was a matter of pick and choose. The learned counsel for the respondents produced the proceedings of the Departmental Promotion Committees for the year 1984, 1986 and 1987 in support of his submission that the

applicants' case was considered by the Departmental Promotion Committee but they were not found fit for regularization. The proceedings of the Departmental Promotion Committee could not be adjudicated. It is the subjective satisfaction of the Departmental Promotion Committee. No other point was raised before us.

4. The annexures 'I' & 'II' of the paper book are the orders promoting the applicants, who are working as Lady Searchers, as Inspectors. It has been clearly stated in these orders that they are promoted against ad hoc posts sanction on 'Costs Recovery basis. Their promotions are purely provisional and they are liable to be reverted at any time without assigning any reason. It has also be mentioned that the seniority of the officers will be fixed according to the Roster Points allotted to them vis-a-vis direct recruits. Annexure 'III' is a letter showing the results of the Promotion Examination for promotion to the grade of Inspector held on 23rd and 24th January, 1986 at Allahabad. The applicants have passed in paper third. We have also perused the Departmental Promotion Committees' proceedings for the year 1984, 1986 and 1987. These Departmental Promotion Committees normally meet annually . The members of the Promotion Committee are nominated in accordance with the Central Excise and Land Customs Department Group 'C' Recruitment Rules, 1979 read with Ministry of Finance (Department of Revenue), New Delhi's letter dated 26.12.1981. The Committee in 1984 considered the candidates for filling up 30 vacancies. On the ^{3x} ~~three~~ ex-formula 90 candidates were assessed by this committee. All the candidates

^{3x} were ~~assessed~~ ^{assessed during the} interview by the Committee and certain candidates were found fit during the interview while certain others were not found fit. The confidential character rolls of the candidates, who were found fit, were further screened to arrive at ^{the} grading. Only one candidate was declared as 'excellent' while some members were grouped under 'very good' grading and ^{still} others under the 'good' grading. Yet some others were found not fit on the basis of their performance in their character rolls, but they were adjudged as fit in the interview. The Departmental Promotion Committee placed 30 persons on the select panel and the rest who were either categorised as 'very good' or 'good' could not find place in the panel. The applicants' names appear at Sl.Nos. 4 and 5 of the list of the candidates who were assessed by the Departmental Promotion Committee. The Departmental Promotion Committee of 1984 was also required to recommend names for filling up six vacancies of Inspectors on Cost Recovery basis. These posts were to be filled by promotion on ad hoc basis in accordance with the Ministry's letter of 7.12.1982 and, therefore, the list had to be compiled on the basis of seniority-cum-fitness on ad hoc basis. ² Though the applicants were not found fit for regular promotion, the Departmental Promotion Committee found them fit for ad hoc promotion and recommended their names. They were accordingly promoted on ad hoc basis by the orders referred to above.

5. In 1986 DPC meeting 17 candidates had to be selected as there were 17 vacancies of Inspectors. 51 candidates were called again on the ^{3x} ~~same~~ ^{3x} formula. The applicants ^{names} appeared at Sl.Nos. 3 and 4 amongst the

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list of this 51 and they were not found fit by the Departmental Promotion Committee. Similarly in 1987 another Departmental Promotion Committee meeting was held ^{31/5} ~~to~~ fill up 24 vacancies in the grade of Inspectors. Out of 72 candidates called for assessment the applicants ^{names 31/} appeared at Sl.Nos. 1 and 2 of the list and 24 names were recommended by the Departmental Promotion Committee in accordance with the grading made by the Departmental Promotion Committee. The applicants could again not find a place amongst these 24 as they were not graded as 'very good'. It was ~~xxxxxx~~ after the announcement of these results that the applicants have been reverted to their substantive post of Lady Searchers.

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6. The learned counsel for the applicants based ^{31/} ~~on~~ his submissions on the fact that during their service the applicants have not been given any adverse remarks and their conduct ^{31/} ~~was~~ ^{was} not bad and also that the Departmental Promotion Committee never considered the reports, hence the rationale of arriving at such a decision could not be established. The applicants had appeared at the interview in front of the Departmental Promotion Committee. It was only those whom the Departmental Promotion Committee considered fit after the interview that their confidential character rolls were assessed to give them a grading. This was the practice adopted by the Departmental Promotion Committee in all the three years from 1984 to 1987. The procedure adopted by the Departmental Promotion Committee is not under challenge. Neither is there any contention raised that there was ^{31/} any bias on the part of the members of the Departmental

Promotion Committee. In any case there is no material to show that there was any irregularity or illegality committed by the Departmental Promotion Committee which could prejudice the case of the applicants. They were interviewed after they had qualified in the written test and they were not considered fit by the committee.

7. The learned counsel for the applicants had also drawn our attention to Naren^{W dr} Chaddha's case claiming relief on the basis of the continuous officiation^W done by the applicants in their ad hoc appointments. In that case the promotees were continuing for 15-20 years and they were promoted after due process of selection. The ratio of the judgment in that case can be easily distinguished and is not applicable to the case of the applicants. The applicants were promoted ad hoc on seniority-cum-suitability basis and when they appeared before three successive Departmental Promotion Committees they were not adjudged as fit for promotion. As a matter of fact they should have been reverted in 1986 but they were continuing on ad hoc basis for which they were found fit in 1984 and they were allowed to continue. They were given a chance to get themselves regularised. They appeared in selection but they failed to qualify. Under the circumstances there is hardly any force in their application.

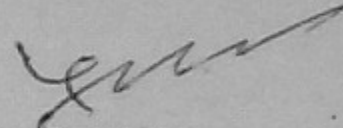
8. On the above considerations we do not find that justice has suffered and the applicants have been reverted illegally. ^W If they were already told that their promotions were ad hoc and liable to be terminated at any time without assigning any reason. It was not a question of there being no reason for their reversion.

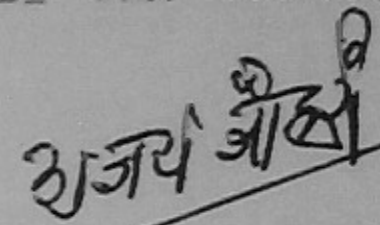
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They were not empaneled and they were not found suitable and, therefore, they were reverted and for this the applicants cannot claim that they have been discriminated against. On the above considerations the application is dismissed. Parties will bear their own costs.


VICE-CHAIRMAN.



MEMBER (A).

Dated: September 27, 1987.

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