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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 150 of 1990

Date of Decision: 18.6.1993

Dr. Mrs. M.S. Tokekar

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. C.V. Murty
C.M.K. Murty
S.K. Rath,
Advocates

For the respondents 1 to 4

Mr. T. Dalai,
Addl. Standing Counsel
(Central)

For the respondent No. 5

Mr. R.C. Mohanty,
Advocate

C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. C.S. PANDEY, MEMBER (ADMINISTRATIVE)

1. Whether the reporters of local newspapers
may be allowed to see the judgment ? Yes

2. To be referred to reporters or not ?

3. Whether Their Lordships wish to see the
fair copy of the judgment ? Yes

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays that a direction may be issued to Opposite Party Nos. 1 to 3 to consider the case of the petitioner to appoint ~~her~~ to the post of Senior Medical Officer in the Civil Hospital in A.R.C., Charbatia in the higher scale of Rs.2700-5000/-, and also to issue directions to provide promotional avenues to the petitioner for being promoted to the said higher post.

2. Shortly stated the case of the petitioner is that after turning out successful in the M.B.B.S. Examination in the year 1961 and after completing her Post Graduate Course in the year 1965, the petitioner was appointed as an Assistant Surgeon in the A.R.C. Civil Hospital vide Annexure-1 dated 8.8.1966; and soon thereafter, the petitioner joined the said post and she has already completed 23 years of service in the said post. The petitioner submitted several representations for being considered for promotion to the post of Senior Medical Officer and since her grievance was not redressed, this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the recruitment rules have provided certain limitations for which the petitioner cannot claim promotion to the post of Senior Medical Officer. Hence the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.C.V.Murty, learned counsel for the petitioner and Mr.R.C.Mohanty, learned counsel appearing for Opposite Party No.4 on the merits of the case.

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5. In the counter it is stated t.i.n. in paragraph 6(1) as follows :

" For direct recruitment the qualification is Post Graduate degree in Medicine (MD) with specialisation in aviation medicine and must be willing and physically fit to undergo para jump training. Deputation is of officers of the rank of Sqn Ldr./Wg.Cdr./Flt. Lt. from the Medical Corps of the I.A.F. preferably para trained. Hence she is not eligible for the post of Senior Medical Officer/Medical Officer in the Airwing Cadre either by direct recruitment or by deputation".

In the **subsequent** paragraph it is stated as follows :

" After long deliberations with SSB Cabinet Secretariat the merger could not be materialised, one of the reasons, among others, being that Dr.(Mrs)Tokekar did not opt for the combined cadre. The review of medical officers cadre has been taken up recently with a view to finding promotional avenues for CAS Gr.I. It was decided again to explore the possibility of including these posts in the SSB Medical Cadre where promotional avenues and other benefits were better than these in the ARC. The matter was taken up with the SSB and they wanted a clarification from ARC on 2.3.1990 if the existing Medical Officers of ARC would be willing to accept the seniority from 1.1.1986 since they had been brought in the pay scale of Rs. 2200 - Rs.4000/- with effect from 1.1.1986, whereas SSB doctors were in this scale prior to 1.1.1986. (Dr.Mrs)Tokekar ~~was~~ was asked to exercise her option whether she is willing to accept her seniority w.e.f. 1.1.1986."

Further more it is stated as follows :

" The review of the ARC Medical Officers Cadre was undertaken as explained above, but it could not be materialised as Dr.(Mrs) Tokekar and Dr.N.Bhera declined to accept the proposal for combined cadre with SSB. It would be thus seen that the existing recruitment rules do not provide for their promotion or appointment to the post of Senior Medical Officer/Medical Officer in Air Wing (Medical Officer) Cadre."

All the above quoted averments have not been denied by the

petitioner in the rejoinder to the counter filed by her. The only ground taken in the rejoinder is that vide Annexure-8 and 9 her case had been recommended to the Cabinet Secretary for revision of her pay scale at least with effect from 1.1.1973 as she has been undergoing financial loss; and therefore, she is fitted in the scale of Rs.2200-Rs.4000/- with effect from 1.1.1986.

5. Before we express our opinion on the scale of pay to be fixed for the petitioner, we have no hesitation in our mind to hold that the recruitment rules did not permit the petitioner to be considered for promotion to the post of Senior Medical Officer, because of her ineligibility, but, as far as the fitment of the petitioner in the pay scale of Rs.2200-Rs.4000/- with effect from 1.1.1986 is concerned, vide Annexure-9 dated 18.4.1988, the case of the petitioner was recommended for revising her pay scale at least with effect from 1.1.1973 from Rs.700-Rs.1300/-. This recommendation has not been acted upon as yet. We would direct that the recommendation made by the Deputy Director(B) in the Office of the Directorate General of Security, Aviation Research Centre, contained in Annexure-9 be given effect to within 90 days from the date of receipt of a copy of the judgment. The claim of the petitioner for promotion to the post of Senior Medical Officer is disallowed because of the reasons stated above.

6. Thus the application is accordingly disposed of. No cost.


G. M. Sahoo
MEMBER (ADMINISTRATIVE)


Vice-Chairman
18/6/93

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 18/6/1993/ B.K. Sahoo