

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH
CUTTACK

O.A. 600/2003

Date of order: 26.05.2004

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. H.P. Das, Administrative Member.

S.L. Acharya

-versus-

Union of India and Ors.

For the applicants : Mr. Achintya Das, counsel..

For the respondents : Mr. R.C. Rath, counsel.

O R D E R

Per Justice B. Panigrahi, VC

From the perusal of the last order dated 12.5.2004, it is noticed that it was clearly indicated that if the respondents failed to file reply today, no further chance would be given to them for filing the same.

2. Mr. Rath, 1d. counsel appearing for the respondents has submitted that no instruction has yet been received by him to file reply. In that event, no reply shall be accepted from the respondents. It is open to Mr. Rath to address the allegations made in the application today on behalf of the respondents on points of law..

3. Upon hearing Mr. Achintya Das, 1d. counsel appearing for the applicant and Mr. R.C. Rath, 1d. counsel appearing for the respondents and on going through the averments stated in the application, it appears that the applicant has joined as Jr. Stenographer under the respondent No.1 on 16.8.91. In course of

employment she was expecting promotion sometime in the middle of 1998. There was a suitability test conducted by respondent No.1 in which the applicant's junior was said to have been promoted to the post of Senior Stenographer. But the applicant's case was deferred on account of pendency of vigilance case. In the order dated 8/10.2.99 vide Annexure-A/6, it was ~~thoroughly~~ ^{clearly} indicated that the final panel would be published after finalisation of vigilance case pending against the applicant.

4. Mr. Das, 1d. counsel appearing for the applicant has submitted that although the Vigilance enquiry has already been finalised and the applicant was given promotion to the rank of Senior Stenographer, but the respondent No.1 did not consider her seniority above her junior, Sri B.K. Das who was earlier given promotion to the post of Senior Stenographer since 10.2.99.

5. Since in the meanwhile, the applicant as well as other persons junior to her have already been selected to be appointed to the post of Sr. Stenographer, the only question that has ~~been~~ survived for consideration is the inter-se seniority of the applicant vis-a-vis her juniors who were promoted earlier than her to the post of Sr. Stenographer. The applicant's case for promotion to the post of Sr. Stenographer was deferred only on the ground of pendency of vigilance case against her and in the order, as already stated above, it was indicated that her promotion would be considered after vigilance enquiry was finalised. In the meantime, the vigilance enquiry has been culminated as disclosed by Mr. Das. But the inter-se seniority position of the applicant has not yet been determined.

6. In the aforesaid situation, we direct the respondent Nos. 3 and 4 to examine the seniority of applicant vis-a-vis her juniors and accordingly decide the matter in accordance with the rules. In case the applicant's seniority is re-determined, she shall not be entitled to arrears but her notional pay fixation w.e.f. date her junior was promoted as Sr. Stenographer shall be made by the respondent Nos. 3 and 4. This exercise be completed within 4 months from the date of communication of this order.

7. With the above observation the application is disposed of. No costs.

R. I. D.
Member (A)

B. S. C.
Vice-Chairman.