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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR.

O.A No. 248/1999.

Date of Order : 09.01.2002

Smt. Garnet Meera Fredrick wife of Shri D S Fredrick, aged about 48 years, resident of 140, Patrakar Colony, Opp. New Power House, at present employed on the post of Trained Graduate Teacher (Biology) in the office of Kendriya Vidyalaya No.2 Air Force, Jodhpur.

... APPLICANT.

v e r s u s

1. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. Assistant Commissioner, Kendriya vidyalaya Sangathan, 92 Gandhinagar Marg, Bajajnagar, Jaipur.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Marg, New Delhi.
4. The Principal, Kendriya Vidyalaya AF No.21 Jodhpur.
5. Smt. Sushma Gupta wife of Shri A P Gupta, PGT, Kendriya Vidyalaya Army No. 1, Jodhpur. Jeet Singh Marg, New Delhi.

... RESPONDENTS.

Mr. J.K. Kaushik, counsel for the applicant.
Mr. K.K. Shah, counsel for respondent No. 1 to 4.
None is present for respondent No. 5.

CORAM

Hon'ble Mr. Justice, O.P. Garg, Vice Chairman.
Hon'ble Mr. A.P. Nagrath, Administrative Member.

: O R D E R :

(per Hon'ble Mr. Justice O.P. Garg)

Mrs. Garnet Meera Fredrick, who is presently employed on the post of Trained Graduate Teacher (Biology) in the office of Kendriya Vidyalaya No. 2, Air Force, Jodhpur has, by means of this present Original Application under Section 19



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of the Administrative Tribunals Act, 1985, claimed the following relief :-

- " (i) That the respondents No. 1 to 4 may be directed to consider the candidature of the applicant for promotion to the post of PGT (Chemistry) for the due dates and allow all the consequential benefits at par with her next person lower in merit.

IN THE ALTERNATIVE

The respondents No. 1 to 4 may be directed to give her promotion in pursuance with order dated 30.06.1995 Annexure A/7 with posting at Jodhpur in place of respondent No. 5 and allow all the consequential benefits."

2. Earlier the applicant had filed Original Suit No. 79/1996 in the Court of Civil Judge, Junior Division. In that suit, the applicant had claimed the relief that she may be directed to be promoted on the post of PGT on the date on which her junior Smt. Sushma Gupta was promoted, with consequential benefits. It was also prayed that she should be promoted on the post, which was being manned by Smt. Sushma Gupta or in the alternative, she may be posted at Bikaner or Jaipur on PGT post. The plaint of the suit was returned for presentation before this Tribunal as the Civil Court had no jurisdiction in the matter.



3. A detailed reply has been filed by the contesting official respondent No. 1 to 4. On behalf of Smt. Sushma Gupta, Respondent No. 5, a reply has been filed through Shri B.L. Bhatia.

4. Heard the learned counsel for the parties.

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at considerable length and perused the documents brought on record.

5. To begin with, it may be mentioned that Smt. Sushma Gupta, respondent No. 5, is admittedly senior to the applicant. However, Shri J.K. Kaushik, Learned counsel for the applicant, pointed out that since Smt. Sushma Gupta had earned disability on account of her having been debarred and was not in the consideration zone for promotion in the year 1994, the applicant is to be treated senior. Shri K.K. Shah, Learned counsel for the official respondents pointed out that Smt. Sushma Gupta was actually promoted in the year 1995, but her promotion related back to the year 1993. The applicant has not challenge the selection made in the year 1994 or ~~xxx~~ in the year 1995. She cannot also go beyond the scope of the pleadings putforth in the Civil Suit. As said above, in the Civil Suit, the simple prayer of the applicant was that she may be given the benefit of promotion from the date her junior Smt. Sushma Gupta was promoted. The applicant is not entitled to this relief for one simple reason that Smt. Sushma Gupta was admittedly senior in service and had a right to be promoted prior to the applicant.



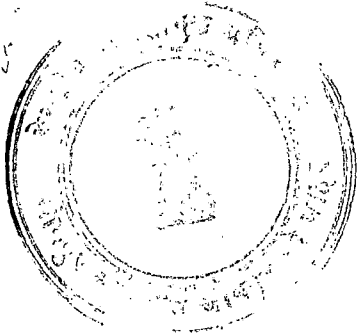
6. The applicant was earlier granted promotion but she refused to join on the promoted post as she did not want to go out of Jodhpur. She had voluntarily forgone the promotion. In this connection a reference was made to para 7 of the reply filed by the

respondents in Miscellaneous Case No. 223/2000 in Miscellaneous Case No. 153/1999. The uncontroverted facts are that on 06.12.1991, the applicant was offered the promoted post of PGT and was posted in Kendriya vidyalaya, Hissar. She did not proceed to Hissar and preferred ^{to} remain at Jodhpur. In 1995 she was granted scale ^{of} the pay which is equivalent to that of PGT. She was again promoted to the post of PGT and posted at Suratgarh, but she preferred to work at Jodhpur. In February, 2000, the applicant was promoted and posted at Churu, but she did not join the new place of posting. These facts clearly indicate that the respondents have been considering the case of the applicant for promotion and have infact promoted her on more than one occasion but the applicant herself refused to join, ^{as} perhaps she was not interested in leaving Jodhpur.



7. In the present Original Application, the applicant has claimed the relief of consideration of her candidature for promotion to the post of PGT (Chemistry) from the due dates with all consequential benefits at par with her next person lower in merit. There is nothing on record to indicate that the applicant was entitled to ^{that} promotion on the basis of merit. Shri Kaushik could not point out any rule to fortify the claim of the applicant.

8. The fact remains that the applicant is already enjoying the senior scale of pay of PGT.



The relief claimed by her in the Civil Suit or in the present OA, in a modified form, cannot be granted to her. Since the OA^{is} devoid of any merit and substance, it is dismissed, without any order as to costs.

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(A.P. NAGRATH)
Adm. Member

g. i. Garg
(JUSTICE O.P. GARG)
Vice Chairman
9.1.2002

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18/1/2012

copy Recd.
18-1-02
(B.L. Ghali, Adv.)

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18/1/02

Part II and III destroyed
in my presence on 20.6.07
under the supervision of
section officer () as per
order dated 14.5.07

Section officer (Record)