

I/A

CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH: JODHPUR

ORIGINAL APPLICATION No. 117/2005

Date of order: 19.09.2005

CORAM:

HON'BLE MR. J K KAUSHIK, JUDICIAL MEMBER

Smt. Karamjeet Kaur w/o Late Satwant Singh Ji, aged about 54 years, resident of -Quarter No.-6 Type-II, Central Cattle Breeding Farm, Suratgarh (Raj.), at present employed on the post of Medical compounder under Director, Central Cattle Breeding Farm, Suratgarh, District-Sriganganagar (Raj.).

... Applicant.

[Rep. By: Mr. J.K. Mishra, Advocate, for applicant]

V e r s u s

1. Union of India through Secretary to Government of India, Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. The Director, Central Cattle Breeding Farm, Suratgarh, Sriganganagar (Raj.).
3. Shri K.L. Godara, Stockman, Central Cattle Breeding Farm, Suratgarh, Sriganganagar (Raj.).

..... Respondents.

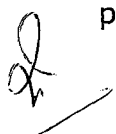
[Rep. By: Mr. Vinit Mathur, Advocate, for respondents No. 1 and 2]

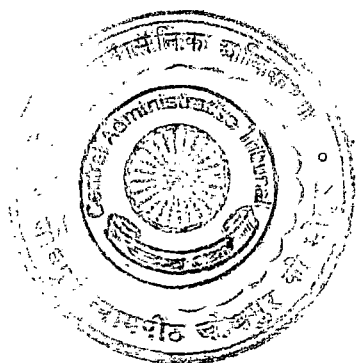
Mr. M. Godara, Advocate, for respondent No.3]

O R D E R

[Per Mr. J.K. Kaushik, Judicial Member]

Heard the learned counsel for all the parties and perused the records and pleadings of this case. In this case, a very short controversy is involved. The applicant is working on the post of Medical Compounder Group 'C'. She has been granted the benefits under ACP on completion of 12 years of regular service whereby her pay came to be fixed at Rs. 5,125/- in the scale of Rs. 4500-75-7000





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with effect from 09.08.1999. She touched the basic Rs. 5,500/- on 01.12.2000 and became entitled for Type -III quarter as per rules in force. One Shri K.L. Godara, i.e. Respondent No. 3 has touched the basic Rs. 5500/- only from 01.09.2003 i.e. much later than applicant. The Type-III Quarter became vacant on retirement of one Shri Khushi Ram Sharma Mechanic, on dt. 31.10.2004. The applicant made an application and requested that the said quarter may be allotted to her. The respondents did not respond to her representation and allotted the same quarter to respondent No. 3.

2. The learned counsel for the applicant has submitted that as per the rules in force, the applicant is senior most in the her present grade and has been drawing the emoluments Rs. 5500/- w.e.f. 01.12.2000, which is eligibility criteria for allotment of Type-III quarter, whereas the private respondent i.e. respondent No.3 touched the pay of Rs. 5500/- w.e.f. 01.09.2003 i.e. much later than the applicant, therefore, the applicant is entitled to get the priority over the respondent No. 3. But the respondent No. 3 seems to be powerful person and has been able to get the Type-III allotment in his favour.

3. Per contra, the learned counsel for the official respondents has submitted that as per the eligibility conditions and rules in force in respect of Type-I to Type -III accommodations, the length of service is counted whereas in case of other types of accommodation, the rules are different and the priority is counted from the date from which Govt. servant is continuously drawing emoluments relevant to a particular type or higher type of. In the instance case, the matter relates to allotment of Type-III quarter, the priority date is counted the date from which one has been in continuous service and that



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would be the right priority date. Both the applicant as well as private respondent No.3 were eligible during the year 2004, when the said accommodation fell vacant, their continuous service has to be reckoned from the date of the initial appointment in which the private respondent is admittedly senior. In this view of the matter, Hon'ble Tribunal would not like to interfere in this matter.

4. I have considered the rival submission put forth on behalf of both the parties. Before appreciating the crux of the matter, I find it expedient to extract the contents of relevant rules as under:

Eligibility-As per basic pay range including stagnation increment but excluding NPA. Dearness Pay (from 1-4-2004) will NOT be taken into account for eligibility purposes.

Priority.-the date from the Government servant is continuously in service in respect of Type I to Type IV accommodation and accommodation in Working Girls' Hostel; and

The earliest date from which the Government servant is continuously drawing emoluments relevant to a particular type or a higher type in respect of Type V (A) to Type VIII accommodation, single and double room hostel accommodation.

Where the priority date of two or more officers is the same, seniority among them shall be determined by the emoluments, and the officer drawing higher emoluments will be given first preference; where the emoluments are equal, the length of service will be criterion; and where both the emoluments and the length of service are equal, the officer in the higher scale of pay will get preference.-SR 317-B-2."

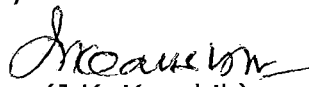
5. Now adverting to the facts, there is hardly any dispute regarding the factual aspects. It is true that the applicant started getting basic pay Rs. 5500/- earlier to the private respondent. It is also true that both the applicant as well as the private respondent were eligible for the allotment of the said accommodation in Oct. 2004. The other facts are also admitted that the private respondent is senior in service to that of the applicant. Now applying the aforesaid rule to the contextual aspect of this case, the case involved herein is allotment of Type-III accommodation and it has been specifically



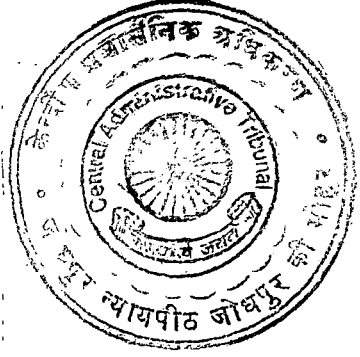
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mentioned that the priority date from which the Government servant is continuously in service, if that were so, there is nothing wrong with the action of the respondents for allotting the Type-III accommodation to the private respondent and the same shall have to be upheld.

6. Looking the matter from yet another angle, the learned counsel for the applicant has stressed that the applicant started getting the emoluments required for allotment of the said accommodation in question much earlier to that of private respondent, the date of the getting such emoluments should have been the priority date. Had this been the position, the law maker should have very clearly said so in the rules as has been done in respect of T-V (A) to T-VIII accommodation. But admittedly the court cannot read something which is not there and the language of the rule is quite clear and the same becomes more distinct with a conjoint reading of the aforesaid rule. In this view of the matter, no indulgence from this Bench of the Tribunal is required. The result is rather very unfortunate but I am left with no option except to dismiss this Original Application and I do so, accordingly but without any order as to costs.


(J.K. Kaushik)
Judicial Member

LG/-



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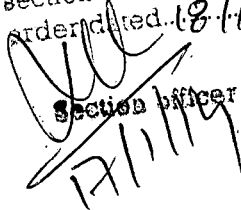
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Part II and III destroyed
in my presence on 17-6-14
under the supervision of
section officer (1) as per
order dated 18-12-13


Section Officer (Records)