

Central Administrative Tribunal
Calcutta Bench

OA/17/97

Date of Order: 14-7-03

Present:

Hon'ble Mr.B.P.Singh, Administrative Member
Hon'ble Mr.Nityananda Prusty, Judicial Member

Mrs.Chitra Bhattacharya Applicant

-Vs.-

Union of India (GM, ER) & 3 ors.

Respondents

For the applicant : Mr.P.C.Das, Counsel

For the respondents : Mr.P.K.Arora, Counsel

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B.P.Singh, AM

This case has been filed by the applicant against nonconsideration of the representation dt.30-3-96 regarding promotion of Head Clerk in Graduate quota in respect of the principles and law laid down by the Hon'ble Supreme Court of India in the judgment and order dt.12-3-96 reported in 1996(1) S.C. Service Law Judgments page 378 (Smt. Anuradha Mukherjee & ors. vs. Union of India and Ors.) The applicant has prayed for the following reliefs :-

a) Direct upon the Respondents to extend the benefits of judgment delivered by the Hon'ble Supreme Court in the case of Anuradha Mukherjee & ors. vs. Union of India & ors. (Annexure H of this application) to your applicant who is a similarly situated and similarly circumstance person.

b) Direct upon the respondents to give promotion to your present applicant to the post of Head Clerk in scale Rs.1400-2300
w.e.f. 9-4-91.

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c) Direct upon the respondents to pay all promotional benefits with arrears along with 18% interest in favour of the applicant.

2. The brief fact of the case is that the applicant was appointed as a Clerk Gr.II on compassionate ground vide letter of appointment dt.25-4-84 enclosed as Annexure A to the QA. By Order dt.28-3-85 issued by the Sr. Divisional Personnel Officer application was invited from serving graduate clerk Gr.II for recruitment to the post of Office Clerk Gr.I for promotion against 13.1/3% quota as per Annexure B. The applicant applied for the post and was found suitable in the suitability test as per Annexure E. The applicant was given promotion from 9-4-91 as per Order dt.12-4-91 enclosed as Annexure F. Thereafter, provisional seniority list was published which is enclosed as Annexure G. But, in spite of this her seniority was not correctly shown and the applicant made representation against the said seniority list which is enclosed as Annexure I. The applicant was not given any reply to her representation. It is further stated that the Hon'ble Apex Court held in Anuradha Mukherjee & ors. vs. Union of India & ors. (1996(1) SC Service Law Journal page 378 that some fixed percent of the vacancy which has arisen after October 2, 1980 would be reserved for graduate clerk (Gr.II) subject to their availability. They would be recruited on the principle of seniority cum suitability. If suitable inservice candidate is not available, the balance vacancy will be filled up along with 10% vacancy by the candidates from open market. 80% vacancy will be available to non-graduate. Seniority cum suitability would be the principle of promotion for non-graduate clerk (Clerk Gr.II also). The applicant submits that the respondents should have considered her representation and given her justified promotion as she is

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similarly placed person like applicants in the above order of the Hon'ble Supreme Court. Aggrieved with the said inaction, the applicant has filed this OA and prayed for the reliefs as stated above.

3. Ld.Counsel Mr.P.C.Das appears for the applicant. Ld.Counsel Mr.P.K.Arora appears for the respondents. Reply has been filed. No rejoinder has been filed by the Ld.Counsel for the applicant. Ld.Counsel for the respondents submits that the case of the applicant should not be considered because by that time she was age barred as per rules. But, on perusal of the judgment of the Hon'ble Supreme Court we do not find anything on this score.

4. Ld.Counsel for the applicant submitted that his client will be satisfied at this stage if a suitable direction is given to the respondent authorities to consider the representation of the applicant dt.30-3-96 enclosed as Annexure I treating this OA as part thereof according to the principles laid down by the Hon'ble Supreme Court as according to him the present applicant is similarly placed person like applicants in the above order of the Hon'ble Supreme Court. Ld.Counsel for the respondents has no serious objection to the above prayer of the Ld.Counsel for the applicant except that while considering her case the extant rule on the subject should also be taken into account.

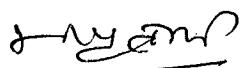
5. In view of the above we do not want to keep this case pending any more and decide to dispose of the same.

6. Accordingly we dispose of this OA with a direction to the respondent authorities specially the respondent no.3 to consider the representation of the applicant dt.30-3-1996 enclosed as Annexure I treating this OA as part thereof according to order and principles laid down in the case of

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Smt. Anuradha Mukherjee & ors. vs. Union of India & ors.
1996(1) S.C. Service Law Judgments page 378 within a period
of 3 months from the date of communication of this order by
passing a speaking and reasoned order and communicate the same
to the applicant within 2 weeks thereafter. In case the
applicant is found similarly placed like that of the
applicants in the case decided by the Hon'ble Supreme Court,
the same benefit should be extended to the applicant within a
period of 2 months from such order. The OA is disposed of
accordingly without any order as costs.


Nityananda Prusty,
Judicial Member.


B.P. Singh,
Administrative Member.

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