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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

(8)

D.A. No. 1096

1987

DATE OF DECISION _____

Mrs. Neena Bhatia Petitioner

CP Myss Advocate for the Petitioner(s)

Versus

U27 Respondent

S. D. Shashikant Chendan Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D. N. Joshi, J.S.C.

The Hon'ble Mr. G. S. Sharma, J.S.C.

- 1. Whether Reporters of local papers may be allowed to see the Judgement ?
- 2. To be referred to the Reporter or not ?
- 3. Whether their Lordships wish to see the fair copy of the Judgement ?
- 4. Whether to be circulated to other Benches ?

Dinesh/

All

LUCKNOW BENCH

Reserved

Central Administrative Tribunal, Allahabad

Registration T.A.No. 1096 of 1987 (W.P.No.5909 of 1982)

Mrs. Veena Bhatia ... Petitioner

Vs.

Union of India & 6 others ... Respondents.

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

(BY HON. G.S.SHARMA, JM)

This writ petition under Article 226 of the Constitution of India has been received on transfer from the Lucknow Bench of High Court of Judicature at Allahabad under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The relevant facts of this case in brief are that the Petitioner was initially appointed as Stenographer on a temporary post in the Architectual Wing (P&T) by the Sr. Architect I (Coordination) P&T, New Delhi and was posted at Lucknow in May 1972. She joined her duties as such at Lucknow on 20.5.1972 and has not been confirmed in her post so far. In 1973, the Civil Circle P&T Lucknow was created. In 1978, the Director General P&T New Delhi issued a letter dated 20.1.1978 containing a policy decision stating that the Ministerial Staff of the Electrical Division and Architect Section shall be governed and controlled by the Civil Circle concerned and the Civil Circle shall be the coordinating authority relating to the services of the Ministerial Staff of the Civil Division, Electrical Division, Architect Section. On the creation of the Civil Circle at Lucknow, the Petitioner was not taken on the strength of this circle and she continued to be under her parent Architectual Wing New Delhi. The Private Respondent No.7 A.K.Dixit was likewise appointed as a Stenographer on a temporary post

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in the office of the Executive Engineer P&T Civil Division Lucknow by the Superintending Engineer P&T Civil Circle III, Calcutta in 1972 and he had joined on that post on 7.8.1972 a little more than 2 months after the Petitioner. On the creation of the Lucknow Civil Circle, the Respondent No.7 was transferred to that Circle and after taking into consideration the position of his seniority in that circle, he was confirmed on his post on 19.2.1981. Thereafter on the basis of his seniority, the Respondent no.7 was promoted as Personal Assistant (for short PA) to the Superintending Engineer Civil Circle, Lucknow vide order dated 27.2.1979.

3. Even after the creation of the P&T Civil Circle at Lucknow in Aug.1972, which started functioning in 1973, the Petitioner continued to be attached to the P&T Civil Circle New Delhi and after a lapse of about 5 years, she made a representation to the Chief Engineer P&T Civil, New Delhi on 22.2.1978, copy annexure 2, for attaching her to the P&T Civil Circle Luckinow. When she did not receive any response, a number of reminders were sent by her for the same. On 13.8.1979, the Senior Architect I Coordination P&T, New Delhi- Respondent no.5 informed the Petitioner through the Regional Architect P&T, Lucknow- Respondent no.6 that the existing system was for administrative convenience and the representations

located within the jurisdiction of an independent Civil Circle shall remain under the coordination control of that Circle and necessary action to adjust the staff of his circle be taken at his end. The contention of the Petitioner is that in accordance with the policy decision of the Director General, P&T conveyed through his letter dated 20.1.1978 and this letter of the Respondent no.3, the Petitioner should have been brought under the coordination control of the Respondent no.4 but this was not done and the Respondent nos.1 to 6 wrongly continued to treat her in the seniority list of the Civil Circle New Delhi as a result of which, she was treated junior to the Respondent no.7 and she was deprived of the benefit of confirmation and promotion.

5. On receiving the letter dated 8.8.1980- (annexure 7) from the Respondent no.3, the Respondent no.4 sought some clarification from him vide his letter dated 19.8.80, copy annexure 11, as in his opinion, on merging the Ministerial Staff of the Architectual Wing Lucknow with the Ministerial Staff of Civil Circle, problems of seniority, confirmation etc., were likely to arise. Certain other Stenographers working under the Civil Circle Lucknow also made representations to the Director General P&T on 14.10.1980, copy annexure 12 for considering certain implications of the proposed merger of the Architect Wing with the Civil Circle Lucknow. This representation was made keeping the case of the Petitioner in mind as on merger she could claim seniority over them. The Respondent no.3 vide his impugned letter dated 18.10.1982 copy annexure 14, ultimately informed the Petitioner through the Respondent no.4 that her case for bringing her under the coordination control of the Civil Circle Lucknow had been examined at length and as in Aug. 1977 the options were invited by him from the officials of Civil Circle Lucknow and the Petitioner did not give

her option she continued to be under the Civil Circle New Delhi and her request for bringing her under the Civil Circle Lucknow could not be accepted. The letter also indicated that separate orders were being issued for transferring her from Lucknow to the jurisdiction of the Superintending Engineer (C) Delhi. Aggrieved by this reply, the Petitioner filed this writ petition on 20.11.1982 with a prayer that the said order dated 18.10.1982 of the Respondent no.3 as well as the promotion order dated 27.2.1979 of the Respondent no.7 as PA be quashed and the Respondent nos. 1 to 6 be directed to treat the Petitioner ~~on~~ on the strength of Civil Circle P&T Lucknow w.e.f. 1973 and she should be confirmed as Stenographer of that Circle w.e.f. 20.5.1972 on the completion of the period of her probation for 2 years. The Lucknow Bench of the High Court also issued an interim direction to the Respondents that no promotion shall be made by-passing the claim of the Petitioner and she shall also not be transferred from the Circle in which she was working. The said interim direction continued till date.

6. The petition has been contested on behalf of Respondent nos. 1 to 6 and in the reply filed on their behalf it has been stated that on the creation of the Civil Circle at Lucknow the services of the staff working in the Civil, Electrical and Architect Sections, New Delhi were transferred to Lucknow after obtaining their options. As the Petitioner did not exercise her option for transfer to Lucknow Civil Circle, she continued to be in the Civil Circle New Delhi and only as an afterthought she had made a delayed representation on 22.2.1978 for taking her on the strength of the Respondent no.4. The Respondent

10. As already pointed out above, the letter dated 8.8.80 of the Respondent no.3 aforesaid not only created some apprehensions in the minds of the staff already working in the Civil Circle Lucknow about the position of their seniority and some of them made a joint representation in this respect to the DG P&T on 14.10.1980, copy annexure 12, even the Respondent no.4 himself sought some clarification for the proper implementation of the policy decision of the DG P&T in the matter of confirmation and seniority of the staff to be brought under the Civil Circle Lucknow under the said policy decision by addressing the letter dated 19.8.1980, copy annexure 11 to the Respondent no.3. The said letter and the representations made, as above, however, do not appear to have been given any consideration and only in reply to her representation the Respondent no.3 had informed the Petitioner through the Respondent no.4 that as she did not exercise her option for the newly created Lucknow Circle and she continued to remain on the strength of the Civil Circle New Delhi, she could not be treated under the coordination control of the Lucknow Circle under the letter dated 29.4.1980 of the DG P&T. Without going through the relevant letters dated 20.1.78 and 30.4.80 of the DG P&T, we are unable to comment about the correctness or otherwise of the stand taken by the Respondent no.3 in this impugned letter. It, however, appears ~~a~~ little anomalous that even after the issue of the said letters persons belonging to separate Civil Circles are posted at a place having an independent Civil Circle and perhaps keeping this thing in view, the Respondent no.3 had decided to transfer the Petitioner from Lucknow to the jurisdiction of the Superintending Engineer (C) Delhi. In case the policy decisions of the DG P&T, as mentioned above, have no appli-

-cation to the Petitioner on account of her not exercising option for Civil Circle Lucknow on its creation in 1973 the Petitioner can have absolutely no case to challenge the validity of the impugned letter, annexure 14, or to challenge the seniority position and promotion of the Respondent no.7. On the other hand, if the provisions of the said letter show that even in the absence of an option an employee working in Architect Wing at a place where an independent Civil Circle has been created, has to be brought under the coordination control of that Circle, *inter se the other staff of such circle*, the question of his/her seniority will crop-up, which cannot be decided on any hypothetical consideration. We will like to point out that in case the DG P&T had intended so, he should have also issued specific instructions for determining the inter se seniority of the staff formerly belonging to different Civil Circles and in case it has not been done so far, he should issue the necessary instructions now keeping in view the settled norms for determining the inter se seniority of the staff in such a situation as laid down by the Hon'ble Supreme Court and this Tribunal in various cases.

11. Under the circumstances stated above, we refer *matter* to the Director General P&T, New Delhi- Respondent no.2 for taking such action as may be found necessary in the light of the observations made above within a period of 3 months from the date of the communication of this order. He shall pass speaking orders on letter dated 19.10.80, annexure 11, and representations dated 14.10.80 and 23.4.82, annexures 12 and 13 to the petition and if necessary, shall also issue necessary instructions for determining the inter se seniority of the concerned staff.