

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No.: 292/88

Transferred Application

DATE OF DECISION 08.2.94

Smt. Shashikala Champat Rao Pakhale --- Petitioner

Shri D.V. Gangal Advocate for the Petitioners

Versus

Union of India and others --- Respondent

Shri P.M. Pradhan Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri M.R. Kolhatkar, Member (A)

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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 it needs to be circulated to other Benches of the Tribunal ?

} No

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member (J)

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 292/88

Smt. Shashikala Champatrao Pakhale. ... Applicant.

V/s.

Union of India through  
the General Manager,  
Ordnance Factory  
Ambarnath.

Mrs. S.P. Lawrence  
Staff Nurse  
Ordnance Factory Hospital  
Ambarnath.

... Respondents.

CORAM: Hon'ble Shri M.R. Kolhatkar, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri D.V. Gangal, counsel  
for the applicant.

Shri P.M. Pradhan, counsel  
for the respondents.

JUDGEMENT

Dated: 08/2/94

( Per Smt. Lakshmi Swaminathan, Member (J) )

This application has been filed by Smt. S.C. Pakhale, working as Staff Nurse in the Ordnance Factory Hospital at Ambarnath. She has stated that her grievance is not against any specific order passed by the respondents, but that she has not been considered for promotion to the post of Matron which post has been lying vacant since 1.10.86. According to her, promotion to the post of Matron is on the basis of seniority-cum-fitness and that the post falls in reserved category in favour of a Scheduled Caste candidate. She being a Scheduled Caste candidate and her record of service having been excellent, her claim is that her non promotion as Matron in 1986 on retirement of the earlier incumbent Mrs. Abraham was illegal. According to her, the appointment of Mrs. S.P. Lawrence, Senior Nurse Grade I, the second respondent in this case, as

Matron, against the post meant for a Scheduled Caste candidate, showed that the respondents were motivated against her, and that is why she was superseded and given certain adverse remarks. She has also stated that she had made certain representations to her superiors that she was supplied with medicines whose date of expiry had lapsed, for investigation into the matter. According to her, the first respondent, namely, the General Manager issued a charge-sheet to her on 30.5.87, because of the complaints she had made to her superior officer. The learned counsel for the applicant contended that the Departmental Promotion Committee should be directed to consider the applicant for promotion to the post of Matron with effect from 1.10.86 and grant her the promotion from that date in place of Mrs. Lawrence, who had been granted the adhoc promotion.

2. The learned counsel for the respondents took the preliminary objection that the applicant cannot seek all the reliefs as prayed for in para 9 of the O.A. having regard to Rule 10 of the Central Administrative Tribunal Procedure Rules (1985), as they are not based upon a single cause of action. We do not find any substance in the preliminary objection as the reliefs claimed pertain to the non-promotion of the applicant to the post of Matron and are inter - connected.

3. The learned counsel for the respondents mentioned that the applicant had in fact been considered for the post of Matron, three times by the D.P.C., right from 1.10.86. Mrs. S. P. Lawrence was senior to the applicant and since the D.P.C. had not found the applicant fit for being promoted to the grade of Matron and in order to ensure that the hospital work

does not suffer, Mrs. Lawrence had been posted as Matron on adhoc basis with effect from 1.10.86. After completion of the oral hearing, the learned counsel for the respondents have produced the Annual Confidential Reports of the applicant for the period 1.10.82 to 30.9.87 and the D.P.C. proceedings dated 8.9.86, 13.7.87 and 9.7.88 for our perusal. This has been done at the request of the counsel for the applicant who had desired that these original records may be shown to us to verify the facts. Accordingly, we have perused the Annual Confidential Reports and the relevant D.P.C. proceedings held for considering the candidates for the promotion to the grade of Matron. Since this was a reserved post for a Scheduled Caste candidate, the only eligible candidate belonging to this community on 8.9.86, when the D.P.C. met, was Mrs. S.C.Pakhale, the applicant. The D.P.C. after going through the records, including the A.C.Rs took a view that because of certain shortcomings reflected in the Applicant's A.C.Rs for the period from 1.10.84 to 13.9.85 which had been communicated to her, her performance had to be watched for some more time. The Ordnance Factory, Ambarnath vide order dated 10.6.85 had extended the probationary period of the applicant by six months from 9.5.85 to 8.11.85. The D.P.C. therefore, did not find her fit for promotion to the grade of Matron. Her case was re-considered in the D.P.C. held on 31.12.87 and the D.P.C. again came to the conclusion that she was not fit for promotion to the post of Matron. In these circumstances Mrs. Lawrence who was a Senior Nurse (Grade I) and senior to the applicant was given the post of Matron on ad hoc basis.

4. In the light of the above facts, since the duly constituted D.P.C. has already considered the applicant for promotion to the post of Matron with effect from 1.10.86, her claim for being further considered is rejected. Having found the applicant unsuitable for promotion to the post of Matron on 1.10.86, we find no illegality in appointing Mrs. Lawrence on adhoc basis, who admittedly was senior to the applicant till the post could be filled on regular basis.

5. Another issue raised by the learned counsel for the applicant was that there was no common grade for Nurses in various Ordnance Factories under the respondents, therefore, the respondents should have only promoted the applicant to the grade of Matron in the hospital at Ambarnath and could not have appointed any other Nurse belonging to the Scheduled Caste community from any other Ordnance Factory Hospital. The learned counsel for the respondents has submitted that the applicant has not challenged the appointment of Smt. S.B. Gaikwad, who was also a Scheduled Caste candidate, to the post of Matron in the O.A. Our attention was also drawn to some other existing instructions in the Ordnance Factories that the vacancies are first to be filled by adjustment of surpluses/volunteers and sometimes by transfer of experienced personnel from other factories. In this case, since the vacancy had to be filled in by a Scheduled Caste candidate, the D.P.C. having not found the applicant fit in 1986 and 1987, the respondents had requested the General Managers of all Ordnance Factories to intimate whether any person belonging to Scheduled Caste community is willing to be transferred on

promotion to the post of Matron in the Ordnance Factory at Ambarnath. Accordingly, Smt. Gaikwad (S.C.) who was admittedly not from the Ordnance Factory, Ambarnath, was considered by the D.P.C. alongwith the applicant on 9.7.88. In the circumstances the claim of the applicant for being considered for promotion to the post of Matron has been fully complied with. Apart from this, the action of the respondents to call for suitable Scheduled Caste candidates from other Ordnance Factory Hospitals was neither arbitrary nor illegal. The D.P.C. which met in 1988 had considered the suitability of the applicant and Mrs. Gaikwad for this post and in the circumstances, we find, that the respondents action is legal and valid.

6. The learned counsel for the applicant also claimed that her C.R.s for 1985 and 1986 had been specifically written so as to deprive her the promotion and that the adverse remarks should be expunged. The learned counsel for the respondents stated that she could have filed an appeal to the competent authority in this matter which she had not done. We do not find any substance in the applicants submissions.

7. In the result the application is devoid of merit and is rejected, but there shall be no order as to costs.

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member (J)

*M.R. Kolhatkar*  
(M.R. Kolhatkar)  
Member (A)