

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.886/1999
&
Original Application No.76/2000

Dt 19-6-2001.

CORAM: HON'BLE SHRI JUSTICE ASHOK C. AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

O.A.No.886/99

Smt. K. Vijayan
Chief Matron,
Railway Hospital,
Kuruduwadi,
Madha Taluka, Solapur
Maharashtra, r/a
Railway Quarters No.RB.III
332, Kurduwadi,
Solapur Dist.
Maharashtra.
Pin 413 208. Applicant

(Applicant by Shri S. Ramamurthy, Advocate)

vs.

1. Union of India,
through the General Manager,
Central Railway,
Chhatrapati Shivaji Terminus,
Mumbai 400 001.
2. The Divisional Rail Manager,
Central Railway,
Solapur Division,
Solapur, Maharashtra.
3. The Chief Personnel Officer,
Central Railway,
Chhatrapati Shivaji Terminus,
Mumbai 400 001.
4. The Divisional Personnel Officer,
Central Railway,
Solapur Division,
Solapur, Maharashtra.
5. S.B. Nilegaonkar
(Nee Kusum Bhiwaji Kadam)
working as Matron in the
Railway Hospital at Solapur
Maharashtra Pin. 413 001. Respondents.
(Respondents 1 to 4 by Shri S.C. Dhawan, Advocate
Respondent No.5 by Shri K.B.Talreja, Advocate)

...2/-

O.A.No.76/2000

Smt. ;S.B.Nilegaonkar,
Matron, Central Railway
Hospital, Solapur,
C/o Shri K.B. Talreja,
Advocate.

... Applicant

(Applicant by Shri K.B.Talreja, Advocate)

1. Union of India,
Through the General Manager,
Central Railway, Mumbai CSTM.

2. The Divisional Railway Manager,
Solapur Division,
Solapur.

3. Smt. K. Vijayan,
Matron, Grade Rs.2000--3200(RPS)
Kurdwadi, under Executive,
Control of DRM-Solapur.

.... Respondents.

(Respondents No.1 & 2 by Shri S.C. Dhawan, Advocate
Respondent No.3 by Shri S.Ramamurthy, Advocate)

O R D E R (ORAL)

[Per: Smt. Shanta Shastry, Member (A)]:

O.A. Nos.886/99 and 76/2001 have been taken up for disposal together as they are interlinked i.e. the Applicant in O.A.No.76/2001 is the Respondent No.5 in O.A.No.886/99 and the Applicant in O.A. No.886/99 is the Respondent No.3 in 76/01. We take up O.A. No.76/2001 first for disposal.

2. The prayer of the Applicant in this O.A. is to direct the Respondents to award her the benefit of restructuring of the new additional grade i.e. of Chief Matron and to set aside the impugned order dated 6.4.1999 and cancel the promotion of Respondent No.3.

3. The Applicant was appointed as a Staff Nurse, w.e.f. 1.12.1983 in the grade of Rs. 455--700/- on the Family Welfare

side designated as Public Health Nurse. At that time, the Medical Department and Family Welfare Department had different categories of nursing staff. On the Public Health side there was no channel of promotion and there was only the post of public health nurse. Whereas in the Medical Department the hierarchy was of Staff Nurse, Nursing Sister, Matron grade II and Matron Grade I. The Applicant had filed the O.A.No.587/87 to claim the scale of Rs.1640-2900 as against the scale of Rs.1400--2600. The Applicant succeeded in the O.A. and the Tribunal directed the Respondents to continue to give the Applicants in that O.A. the emoluments etc. on the footing that there is a revised scale of Rs.1640--2900/-.. It was also directed that the Applicant will be entitled to all consequential benefits as are admissible under law including seniority and promotion which may flow from the Order. This decision was given in 23.9.1992. Thereafter the Respondents implemented the judgement by giving the Applicant the seniority w.e.f. 1.12.1993 as a Staf Nurse and promoted her on the same date as Nursing Sister. Thereafter the applicant was further promoted as Matron by order dated 14.12.1994. Later on the applicant's date of promotion was advanced to 29.12.1999 against reservation from the SC quota. As against this the Respondent No.3 was appointed on 21.1.1967 as Staff Nurse at Kurduwadi. She was later on promoted as a nursing sister in 1976 and further promoted as Matron on adhoc basis in 1987 on regular basis on 27.3.1991. Respondent No.3 was further promoted as Chief Matron in the scale of Rs.7450 -- 11,500/- under Office Order No.3 of 1994 dated 6.4.1999. The grievance of the

applicant is that in the restructuring which was carried out two posts of Matron in the scale of Rs.6500--10500/- were reduced and two posts of Chief Matron were created vide orders dfated 6.4.1999. The Applicant being senior should have been promoted as Chief Matron instead of Respondent No3. It is the contention of the Applicant that the Applicant was at Sr.No.33 in the Seniority List of Matrons as against the respondent No.3 who was at Sr.No.50.

4. The learned Counsel for the Respondents No.3 submits that the Respondent No.3 was all along senior to the Applicant and, therefore, was rightly promoted to the post of Chief Matron. The learned Counsel also brought to our notice seniority lists as on 1.1.1996, in which Respondent No.3 figured at Sr.No.5 whereas the Applicant did not figure in the list at all.

5. The learned Counsel for the Official Respondents submits that whatever seniority was given to the Applilcant was in terms of the judgement in the O.A.No.587/87, and which was rightly given. The only point is that the Applicant was promoted to the post of Matron vide letter dated 13.4.1994 and this was as a general candidate. However, later on, the Respondents advanced the promotion of the applicant as Reservation for SC was available as the SC candidate Senior to the Applicant was promoted in 1988. Therefore, the Applicant was given promotion fr5om 29.12.1988 as Matron. Though the Respondent No.3 was regularly promoted to the post of Matron from 27.3.1991 She had already been on adhoc promotion from 1987 i.e. much earlier to the Applicant. Further in terms of the judgement of the Supreme

Court in the case of *Ajit Singh Januja -II* the Respondent No.3 belonging to General Category who was promoted on regular basis in 1991 in normal course was restored her seniority to the date from when the Applicant was promoted i.e. on 29.12.1988 and thus, being senior right from the date of appointment as a Staff Nurse, the Respondent No.3 was rightly given the promotion to the post of Chief Matron. The Applicant could not have been considered ~~excluding~~ the claim of the Respondent No.3. Therefore, the impugned order dated 6.4.1991 is very much in order and cannot be faulted with.

6. We have heard the learned Counsel for the Applicant, the Respondent No.3 as well as the official Respondents. In our considered view, while no doubt the Applicant was given the seniority of 29.12.1988, as Matron, that was against the SC quota and when the Respondent No.3 from general category was promoted in 1991 her original seniority had to be restored and the Respondents rightly did so. Therefore, she being senior, in our considered view, we cannot interfere with the impugned orders on 6.4.1991 passed by the Respondents. The Applicant has no case. Accordingly, O.A.No.76/2000 is dismissed. We do not order any costs.

7. In O.A.No.886/99 the Apploicant has challenged the seniority given to the Respondent No.5. However, we find that the Applicant has really speaking no cause of action as the Applicant's seniority was not at all disturbed being senior to the Respondent No.5 all along. Again in view of the order now passed in O.A.76/2000, the applicant's seniority is confirmed and

her promotion to the posts of Chief Matron having been held as valid, the Application does not survive. Therefore, the O.A. is dismissed. We do not order any costs.

Shanta Shastray
(Smt. Shanta Shastray)
Member (A)

Ashok C. Agarwal
(Ashok C. Agarwal)
Chairman

sj*