

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.213/90

Smt. Shalini Ganga Beri .. Applicant

vs.

Union of India & Ors. .. Respondents

Coram: Hon'ble Member(A) Shri M.Y.Priolkar

Hon'ble Member(J) Shri N.R.Chandran

Appearances:

1. Mr. Babu Marlapalle
Advocate for the
Applicant.
2. Mr. R.C. Kotiankar for
Mr. M.I. Sethna
Advocate for the
respondents.

ORAL JUDGMENT

(Per M.Y.Priolkar, Member(A)) Date: 25-4-1990

The applicant in this ~~this~~ case is an Upper Division Clerk(UDC) in the office of the Controllerate of Quality Assurance, Kirkee, Pune. On 16-5-1989 she was promoted to the post of Office Superintendent and also transferred to Kanpur on this promotional post. She represented to the respondent No.3 who is the appointing authority that because of some health problem she is not able to move on transfer to Kanpur and that earlier in April, 1987 also when she was promoted and transferred again as Office Supdt. to Kanpur, she ~~also~~ could not move on health grounds. She has the grievance that her representations were not accepted and penalties have been imposed withholding her promotion for a period of 18 months from the date of penalty order dtd. 29.8.87 for

refusing to move on transfer in the first case and by order dtd. 15-12-89 withholding her ~~promotion~~ promotion for one year from that date for refusing to move on promotion for the second time. The applicant has approached the Tribunal after submitting an appeal against the penalty imposed by order dated 15-12-89, to respondent No.3 through respondent No.2, on 12-1-1990. This appeal is still to be decided. The relief\$ sought is for quashing and setting aside penalty orders of 1987 as also of 1989 on the ground that these orders are in contravention of Govt. of India orders CPRO 123/77 and Department of Personnel and Training dtd. 10th April, 1989.

2. The ~~se~~ orders are very clear that the employee has no right to refuse promotion. The ^{provide} ~~state~~ orders only ^{provide} ~~state~~ that if the reasons adduced for refusal of promotion are acceptable to the appointing authority, the next person^Y in the promotion list may be promoted and persons who refused promotion would be disqualified for promotion for a period of 6 months, which is now extended to one year. In any case, since the appeal procedure has not been ~~exhausted~~ exhausted in the present case and the time limit of six months for approaching this Tribunal is not yet over, we would only direct the respondents to dispose of the appeal submitted

(h)

by the applicant on merits within a period of two months from the date of receipt of a copy of this order. The application is disposed of with the direction as above, with no order as to costs.

MCare
(N.R.CHANDRAN)
Member(J)

Wish 25/4/90
(M.Y.PRIOLKAR)
Member(A)

A copy of order of the Appellate Authority bearing No. A/97401/g6/DGQA/vrg. dt. 11.4.90 has been read, from respondents vide their letter dt. 5.5.90, is put up for perusal. (Copy filed in 886 Correspondence file)
6/6/90

Judgement dt 25.4.90
served on R.N.3 on
dt. 2.6.90

NO
21/4/90

Judgement dt 25.4.90
Served on APPLICANT of
R. NO 142 on dt. 10/5/

NO
22/6/90