

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1006/92

Date of Decision: 15.6.1999

Shri G.S.Walia, Advocate for Applicant.

Versus

Union of India and others. Respondent(s)

Shri J.P. Deodhar. Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyantha, Vice Chairman

Hon'ble Shri. D.S. Bawejia. Member (A)

(1) To be referred to the Reporter or not? ✓
(2) Whether it needs to be circulated to ✓ other Benches of the Tribunal?

(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No.1006/92

Tuesday the 15th day of June 1999.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

Mrs. Leela Chandran
residing at
47, Gandaki,
Anushakti Nagar,
Bombay.

... Applicant.

By Advocate Shri G.S.Walia.

V/s,

Union of India through
Secretary,
Department of Atomic Energy
Anushakti Bhavan
Bombay.

Controller,
Bhabha Atomic
Research Centre,
Bombay.

Head Personnel Division
Bhabha Atomic Research Centre,
Bombay.

Mrs. Shalini Cherian
Lower Division Clerk
Personal Division,
BARC, Bombay.

... Respondents.

By Advocate Shri J.P.Deodhar.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

In this application the applicant is claiming the seniority on the basis of continuous officiation from the date of initial appointment in the entry of Lower Division Clerk and consequential benefits. The respondents have filed reply opposing the applicant. We have heard the learned counsel for both sides.

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2. The applicant came to be appointed as L.D.C. in Bhabha Atomic Research Centre with effect from 20.11.1968. The applicant was confirmed in the said post with effect from 1.1.1980. The applicant's case is that she must get the seniority in the grade of LDC from 20.11.1968 and not from 1.1.1980.

3. The respondents have stated that as per ^{then} existing law, date of confirmation will determine date of seniority and not the date of initial appointment.

4. At the time of argument it is brought to our notice that the Government, during the pendency of the O.A., has issued Office Memorandum dated 4.11.1992 persuant to many judgements including the judgement of the Supreme Court. In the Office Memorandum it is also noted that as per the judgement of the Supreme Court, once an incumbent is appointed to the post according to rule his seniority has to be from the date of appointment and not according to the date of confirmation.

The learned counsel for the applicant submits that the applicant is entitled to the benefits that flows from the circular dated 4.11.1992. The learned counsel for the respondents also submitted that the department is preparing the seniority list as per circular and whatever benefits flows from the circular will be given to the applicant.

5. After hearing both sides, we feel that the O.A. should be disposed of on the basis of the Office Memorandum dated 4.11.1992 which is now taken on record. The respondents should prepare the seniority list on the basis of the principle mentioned in the Office Memorandum dated 4.11.1992. If as a result of exercise the applicant's seniority is *Re*

accelarated then she is entitled to seniority position but however not entitled to any retrospective promotion but she will be entitled to prospective promotion from 4.11.1992 onwards on the basis of her seniority position. We also observe that if there is any change in the place of seniority it will not affect any promotion already effected prior to 4.11.1992. Whatever benefits that flow to the applicant as a result of this exercise would only be prospective from 4.11.1992 onwards, whether in the form of fixation on pay or promotion etc, applicant will be entitled to all consequential benefits from 4.11.1992 onwards till today and in future.

With these observations the O.A. is disposed of. The respondents are directed to comply with the order on the basis of the Office Memorandum dated 4.11.1992 within a period of six months from the date of receipt of this order. No order as to costs.

D.S. Bawej
(D.S. Bawej)
Member (A)

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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