

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1305/92

~~Transfer Application No:~~

DATE OF DECISION 26.4.93

Mrs. S.Santha P. Panicker Petitioner

Shri S.P.Saxena Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri V.S.Masurkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.Y.Priolkar, Member (A)

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 ?


(M.S.Deshpande)
Vice Chairman

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA. NO. 1305/92

Mrs. Santha P. Panicker

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri S.P.Saxena
Advocate
for the Applicant

Shri V.S.Masurkar
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 26.4.1993

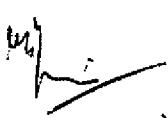
(PER: M.S.Deshpande, Vice Chairman)

The main relief which the applicant is asking is to consider her for promotion to UDC grade with effect from date her immediate junior is promoted to LDC with all the consequential benefits. The ancillary reliefs which were being claimed included that she could not be left out of consideration because she did not come through the Employment Exchange but in view of her having been in the employment for more than six months at the time of initial appointment, we need not refer to the other details which the petitioner and the respondents both have given.

2. In the reply, the respondents have stated that the applicant was initially appointed as LDC on 26.11.1967 a post in which she continued upto 24.7.1968. Thereafter, she was again employed as LDC on 23.1.1969. Subsequently, she was enrolled as LDC at Rs.70/- per month and she was paid out of Trg.Grant w.e.f. 9.4.1969. She resigned that post and on subsequent date, i.e. 16.9.1969 she was appointed as LDC at Rs.110/- per month in the scale of Rs.110-180. The contention of the respondents is that the period exceeding six

months which could be condoned in view of President's letter dated 21.8.1971 cannot be condoned in the applicant's case because of her intervening resignation. It must be noted that according to the applicant the post which she joined immediately after the resignation carried higher emoluments and would be covered by the President's letter dated 21.8.1971 (Ex.A-5) which mentions : "I am further to add that, if necessary even broken periods of past casual service should be taken into account for this purpose provided that one of the stretches of such service is of more than six months." The applicant would be entitled to take advantage of this concession in the letter at Ex.A-5 and despite the resignation, she will be entitled to have the period calculated for being the period for condonation. If that period is condoned, she would not be over-age. The next contention is that the applicant could not be considered because she did not enter into service through the Employment Exchange. The applicant was appointed on probation. In view of the observations of this Tribunal in its judgement in OA.NO. 322/87 S.SADANANDAN PILLAI VS. UNION OF INDIA & ORS. decided on 8.7.1992, the applicant would be entitled to be considered as a regularly employed candidate.

3. It was because of these two objections that the applicant's empanelment was cancelled. In the reply it is stated in para 24 that the applicant is not entitled for promotion since the promotional panel has already been cancelled after holding review DPC since the promotion would be ab-initio wrong. Shri Masurkar, learned counsel for the respondents states that only ^{the} two points which were mentioned above came in the way of her ^{the} entitlement. Since on these contentions only the applicant was not considered, she may now be considered within a period of four months on the basis of regularised service from the date of appointment. She would also be entitled to other consequential benefits.


(M.Y. PRIOLKAR)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN