

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: GULESTAN BUILDING
6, PRESCOT ROAD, MUMBAI - 400 001

ORIGINAL APPLICATION No.730/1993

WEDNESDAY, THIS THE 7TH DAY OF JULY, 1999

SHRI JUSTICE S. VENKATARAMAN .. VICE CHAIRMAN

SHRI S.K. GHOSAL .. MEMBER (A)

Mrs. S.P. Hirve, Aged 53 years,
Midwife, Ordnance Factory Hospital,
Varangaon, Dist, Jalgaon,
R/a No.Q No.M166/F Type II,
Ordnance Estate, Varnagaon,
Taluk Bhusawal - 425 308. .. Applicant

(By Advocate Shri D.V. Gangal)

Vs.

1. The Union of India through,
The Director General,
Ordnance Factory Board,
10 Auckland Road,
Calcutta - 700 001.
2. The General Manager,
Ordnance Factory,
Varangaon, Taluk Bhusawal,
Dist. Jalgaon 425 308. .. Respondents

(By Standing Counsel Shri R.K. Shetty)

O R D E R

Justice S. Venkataraman, Vice Chairman :

The applicant has filed this application for
a direction to the Respondents to consider her for
promotion to the post of Senior Nurse Gr.II in relaxation
of rules and or for a declaration that the Rules (SRO -
No.103) dated 11.4.1979 of 1989, which does not provide

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any channel of promotion to the Midwife as illegal and ultravires Articles 14 and 16 of the Constitution of India and that she should be given promotion retrospectively.

2. The applicant was appointed as Midwife with effect from 3.9.1971. Her grievance is that she has been working in the same cadre and that there has been no avenue of promotion to her. She therefore, wants a direction to the Respondents to promote her as Senior Nurse Gr.II. But, unfortunately for the applicant the statutory Rules do not contain any provision to promote the applicant to the post of Senior Nurse Gr.II as that post is required to be filled either by transfer or deputation. Though there is a provision to fill up that post by Direct Recruitment and even the employees are eligible to appear for Direct Recruitment, it is stated that when the applicant applied for Direct Recruitment, her application could not be considered as she had crossed the age of 40 years which is the age limit prescribed under the Rules for Direct Recruitment in respect of those who are already in service. Thus, it is unfortunate that the applicant who has joined service in 1971 has to continue in the same cadre, though she has been provided with a higher scale. But we are unable to give any relief to her.

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3. As the applicant has already retired from service, there is no need to give any direction to the department to consider amendment of the statutory rules to provide promotional avenue, *even if such a direction is permissible.*

4. For the above reasons, this application fails and the same is dismissed.



(S.K. GHOSAL)
MEMBER (A)



(S. VENKATARAMAN)
VICE CHAIRMAN

psp.