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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.745/26.

Dt. of Decision : 21-8-98.

N. Jagadamma

..Applicant.

Vs

1. The Dept. of Atomic Energy,
Atomic Minerals Division,
AMD Complex, Begumpet, Hyderabad
Rep. by its Director.
2. The Chief Admn. and Accounts
Officer, Atomic Minerals Division,
Dept. of Atomic Energy, Begumpet,
Hyderabad.
3. K.Seshan
4. M.Srikant
5. Rajiv Lechan Thamman

..Respondents.

Counsel for the applicant : Mr.Viles Afzul Purkar

Counsel for the respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

None for the applicant. Heard Mr.V.Bhimanna, learned counsel for the respondents. R-3 and R-4 received notice. But called absent. R-5 notice sent but not returned. As this OA was filed on 17-6-96 the same is disposed of under ~~rule~~ Section 15(1) of the CAT (Procedure) Rules, 1997.

2. The applicant in this OA was initially appointed as LDC on 29-5-67. She was promoted on 2-2-73 as UDC and she worked in that capacity at Rajasthan Atomic Power Project, Keta, ~~was~~ Rajasthan. Thereafter, she transferred to Hyderabad and she ~~has been~~ ~~is~~ working under R-1 from 7-12-96 as UDC. In the year 1993 ~~to the~~ the applicant was assessed by the DPC for promotion ~~to~~ post of Sr. Accounts Clerk/Sr. Clerk etc.. By proceedings No.AMD-21/1/90-Rectt. dated 26-7-93 the applicant was informed that she has been recommended for empanelment by the DPC to the grade of Sr. Accounts Clerk in the pay scale of Rs.1400-2300/- against seniority-cum-fitness quota and her position in the panel was shown at Sl.No.2, which is filed as Annexure-A-I. Thereafter, the applicant continued in that empanelled position and she was not promoted. Subsequently, the respondents promoted R-3 to R-5 as Sr. Clerks even though she is senior to them as can be seen from Annexure-II to the OA. The applicant thereafter filed representations for not promoting her as Sr. Clerk even though she had been empanelled for that post by the DPC in the year 1993 itself for promoting her as Sr. Accounts Clerk. Her representation was replied by the letter No.AMD.21/2/95-ADM. dated 11-1-96 (Annexure-V). It is stated that though she is qualified against the seniority she is not considered fit by the DPC held for the purpose of promotion to Sr. Clerk. Thereafter also she filed representation which was also replied by the letter No.AMD-21/2/95-Admn.IV. dt. 10-4-96 (Annexure-VIII) rejecting her request.

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3. This OA is filed praying for a declaration that the action of the respondents 1 and 2 in promoting the respondents No.3 to 5 in preference to the applicant to the post of Sr.Clerk in the pay scale of Rs.1400-2300/- is arbitrary, illegal and bad in law and for a consequential declaration that the applicant is entitled to be promoted to the said post of Sr.Clerk with effect from and on par with the promotion of the respondents No.3 to 5 to the said post with all consequential monetary and other benefits etc.,

4. A reply has been filed in this OA. The ~~main~~ in the reply respondents submit that Sr.Accounts Clerk and Sr. Clerk are two different posts. Empanelment of the Sr. Accounts Clerk will not entitle the applicant to get promoted as Sr.Clerk if the DPC which considered her promotion for the post of Sr.Clerk did not recommend her. Though both the posts are in the same grade the selection is by different departmental promotion committee. The applicant was no doubt selected and empanelled for the post of Accounts Sr.Clerk and was intimated also by the order No.AMD-21/1/90-Rectt. dated 26-7-93. Her case was considered for promotion to the post of Sr.Clerk by the DPC which met on 4-7-95. But the applicant was not found fit for empanelment as Sr.Clerk whereas her juniors R-3 to R-5 ~~was~~ were found fit. The respondents further submit that till 1993 she was found to be eligible as per his grading in the CR for promotion as Sr.Accounts Clerk. The life of the panel is only for one year. Hence, after the lapse of one year if she had not been promoted during that period as a Sr.Accounts Clerk the panel lapsed and she could not be promoted on the basis of that panel. The post Sr.Clerk and Sr.Accounts Clerk are different posts and for that separate DPC is to be held. The DPC which met on 4-7-95 two years after her empanelment as Sr.Accounts Clerk

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considered the applicant for promotion but she was declared unfit as her grading in the CR had deteriorated in the mean time and hence the DPC did not recommend her. The same was informed to the applicant also while replying her representation. R-3 to were R-5 ~~was~~ found fit by the DPC for promotion to the post of Sr.Clerk and hence they were promoted superseding the claim of the applicant.

5. A rejoinder has been filed in this GA. It is seen from the rejoinder that the applicant did not establish that the post of Sr.Accounts Clerk and Sr.Clerk are one and the same Accounts and once she is empanelled for the post of Sr.Clerk she is also eligible for promotion as Sr. Clerk. In view of that, the rejoinder does not contradict the reply given by the official respondents.

6. From the above submissions it is evident that though the applicant was found fit for promotion to the post of Sr. Accounts Clerk by the DPC which met in the year 1993 she was not found fit for the post of Sr.Clerk which is altogether different posts by the DPC which met on 4-7-95. When she is not found fit for promotion to the post of Sr.Clerk she cannot claim for promotion on par with her juniors. It is also to be stated that no malafides have been attributed by the DPC which met on 4-7-95. In the rejoinder it is stated that she was not called for interview by the DPC which met on 4-7-95. For a DPC which decides eligibility for promotion on the basis of the materials available on record such as CR etc., there is no need to call the applicant for interview. Her promotion to the post of

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Sr. Clerk is to be decided on the basis of the records and not by written test or vive-voce test. Hence, if she ~~was~~ not called for viva-voce and she ~~was~~ ~~was~~ declared unfit by the DPC which met on 4-7-95 it cannot be said to be ~~an~~ irregular recommendation of the DPC.

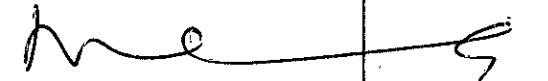
7. We also find that the respondents have followed the DoP&T circular dated 10-3-89 while considering her case for promotion.

8. In view of what is stated above, we find no merits in this OA and hence the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)

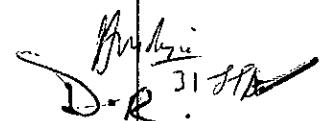
MEMBER (JUDL.)

21/8/98


(R. RANGARAJAN)

MEMBER (ADMN.)

Dated : The 21st August, 1998.
(Dictated in the Open Court)


D.R. 31/8/98

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OA. 745/96

Copy to :-

1. The Director, Deptt. of Atomic Energy, Atomic Minerals Division, AMD Complex, Begumpet, Hyderabad.
2. The Chief Admin. and Accounts Officer, Atomic Minerals Division, Deptt. of Atomic Energy, Begumpet, Hyderabad.
3. One copy to Mr. Vilas Afzul Purkar, Advocate, CAT., Hyd.
4. One copy to Mr. V. Bhimanna, Addl. CGCO., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI G.S. JAI PARAMESHWAR :
M(J)

DATED: 21/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in
C.A.NO. 745/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COST
YLR

