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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:

AT HYDERABAD

O.A.No.158 OF 1997.

DATE OF ORDER:5-1-1999.

Between:

Smt. Indira Jaisimha.

.. Applicant

a n d

1. The Union of India, rep. by its Comptroller and Auditor General of India, 10, Bahadur Sha Jaffer Marg, New Delhi-110 002.
2. The Accountant General, (A&E), A.P. Hyderabad-500 004.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS:: Mr.G.Parameshwar Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.S.Ramakrishna Rao, learned Counsel for the Applicant and Ms.Shakti for Mr.G.Parameshwar Rao, learned Standing Counsel for the Respondents.

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2. The applicant was initially appointed as a Clerk with effect from 18-8-1982. She was promoted to the post of Stenographer with effect from 19-12-1985, carrying the ~~pay~~ scale of Rs.1200-2400. She is eligible for promotion as Section Officer on passing the S.O.G.Examination, Part-I and Part-II. The applicant submits that she had passed S.O.G.Examination Part-II during November, 1991, vide Office Order No.15 in Memo.No. Admn.II/A&E/Exams/SOGE/8-31/92-93, dated:20-5-1992. She was placed in the panel in the list of S.O.G.Examination passed candidates waiting for promotion as Section Officer as on 10-10-1995(as on 10-10-1995 en-listing her at serial no.54). However, she was not promoted as Section Officer ~~considering~~ ^{by} the seniority of the Junior Stenos) with effect from 19-12-1985.

3. Relying on the Comptroller and Auditor General's Manual of Standing Orders(Administrative), Volume.I, the applicant submits that passing of graduation for Junior Stenos has no nexus for promotion as Section Officer. She has to be considered for promotion as Section Officer considering her seniority from the date she was posted as Steno ie., 19-12-1985. In the case of Clerks and Divisional Accountants/Auditors, for promotion, graduation is not insisted upon and hence, insisting upon the graduation for her, who is working as a Junior Steno is not warranted. Hence, she submits that Rule 5.7(d) of the Standing Orders is illegal and hence she has challenged the same. The relevant rule 5.7(d) reads as follows:

"(d) Service as Stenographer shall be equated to service as Auditor/Accountant or Clerk according as the person concerned is a graduate or under graduate. It will also include the

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service in the higher grades like Personal Assistant, Manager (Typing & Cyclostyling Pool), etc. The date of declaration of the results of the degree examination passed by a Stenographer, while in service, should be taken into account for purposes of fixation of his seniority vis-a-vis Auditor/Accountant."

4. This OA is filed to quash the unconscionable condition relating to counting of seniority from the date of passing the degree examination of Stenographers for the purpose of promotion to the post of Section Officers on passing S.O.G. Examination declaring the same as arbitrary, illegal, unwarranted and in violation of provisions of Articles 14 and 16 of the Constitution, and for a consequential promotion fixing her seniority from the date she had entered as Junior Steno id., 19-12-1985 with all consequential benefits.

5. When the OA was taken up for consideration, the applicant brought to our notice Para.8 of the Rejoinder, wherein it is stated that even those who ~~had~~ passed graduation later than her had superseded her and hence even if the date of graduation is to be taken for fixing the seniority, she is senior to all those mentioned in Para.8 of the Rejoinder. Hence, even if her seniority is fixed taking her seniority from July, 1987 onwards when she had passed graduation, she will gain a lot.

6. The learned Counsel for the Respondents produced a letter addressed to her by the respondents, wherein it is stated that the seniority of the applicant will

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be reckoned from the date of acquiring degree of B.Com., i.e., from July, 1987 onwards as prayed for by her in the Rejoinder. This letter is taken on record. In view of the above letter the applicant's seniority will be shown as above the employees mentioned in Para.8 of the Rejoinder and she will be treated as promoted as Section Officer from July, 1987 onwards when she acquired the degree examination provided the employees whose names are indicated in Para.8 of the Rejoinder are already promoted as Section Officers. If the employees mentioned in Para.8 are yet to be promoted as Section Officers, the case of the applicant will also be considered for promotion as Section Officer placing her above the employees mentioned in Para.8 as senior to them.

7. The learned Counsel for the Applicant submits that he will be satisfied with that direction but he also submits that there are other employees, who have not acquired graduation but were promoted earlier. If her seniority is not fixed from the date of her joining as Junior Steno i.e., on 19-12-1985, then there are junior employees whose names are not shown either in the application or in the Rejoinder, will supersede her. But such a contention cannot be accepted unless the details of such junior employees are brought on record. Hence, the applicant is permitted to take up her case with the authorities concerned by filing a representation in that connection. The question of challenging the recruitment rule as extracted earlier is kept open for future consideration if necessity arises. *in view of the present position of the case*.

8. In view of what is stated above, the OA is disposed of with no Orders; but noting the fact

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that her promotion as Section Officer will be considered placing her in the seniority list from the date of her acquiring graduation in July, 1987 as admitted by the Respondents themselves. The representation as indicated in the above para should be disposed of as and when received expeditiously. No costs.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL)
S.1-99


(R.RANGARAJAN)
MEMBER (ADMN)

DATED: this the 5th day of January, 1999

Dictated to steno in the Open Court


2019.

DSN

29/1/99
1ST AND 2ND COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

DATED: 5/1/99

ORDER/JUDGMENT

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

In
O.A. NO. 158/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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