

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 466 of 2004

Jabalpur, this the 27th day of July, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Ku.Davki Maravi
O/e Late Janohar Singh
Date of birth - 7.12.1963.
R/o 15/6 Type-3.
West Land, Khamaris
Jabalpur.

APPLICANT

(By Advocate - Shri S.Paul)

VERSUS

1. Union of India
Through its Secretary
Ministry of Defence, DSQ,
PO - New Delhi.
2. Director
Directorate of Quality Assurance(Armt)
DGQA-Ministry of Defence
H-Block, New Delhi-110011
3. The Principal Scientific Officer
(S.C.O), Quality Assurance Establishment
Ministry of Explosive
Khamaris, Jabalpur

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main reliefs :

"(ii) set aside the order 27.3.2004 Annexure A-1, Movement order dated 27.4.2004 Annexure A-2, 24.5.2004 Annexure A-3 and the order dated 17.5.2004 Annexure A-4,

(iii) direct the respondents to accommodate the applicant in Jabalpur if not possible in Itarsi."

2. The brief facts of the case are that the applicant was initially appointed as Junior Scientific Assistant Grade-II on 2.7.1988. Thereafter she was promoted as Junior Scientific Assistant Grade-I in the month of April, 1998. She was included in the select panel prepared in the year 2002 for the post of Scientific Assistant Grade-I. She decided to

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forego her promotion. Again she has been considered and included in the panel for Scientific Assistant Grade-I for the year 2003-04. The panel was valid till 30.1.2004. Vide order dated 3.4.2003, the applicant was posted as Scientific Assistant Grade-I at SAQE (ME), Aruvankadu (T.N.). Subsequently, the order dated 3.4.2003 was amended by order dated 6.10.2003 and one Shri K.L. Warkade was posted in the place of the applicant in SAQE (ME), Aruvankadu (T.N.) being senior to her. The applicant received an order dated 27.3.2004, whereby she was posted as Scientific Assistant Grade-I at SQAE (A), Bolangir. The applicant preferred a representation dated 2.4.2004 (Annexure A-7) and requested the respondents to consider her request for change of posting station to OAE, Itarsi from Bolangir. During the pendency of the case, one more vacancy has arisen at OAE, Khamaria, Jabalpur. The applicant has given another representation dated 29th April, 2004 bringing this fact to the notice of the respondents. The respondents have considered both these representations and have accepted the alternative request of the applicant to retain her at Jabalpur by foregoing her promotion. Hence, this Original Application.

3. Heard both the parties and perused the records carefully.

4. The learned counsel for the applicant has stated that the applicant was earlier included in the panel of ^{Assistant} Scientific Grade-I but because of her family circumstances which included the fact that she is unmarried, her sister and sister in law are widows, their children are also living with her and the mother of the applicant who is aged 65 years is also dependant on the applicant, she has not accepted her promotion to the next higher grade at out station. Now she

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has been again empanelled for promotion to the post of Scientific Assistant Grade-I for the year 2003-04. According to the learned counsel for the applicant there is a vacancy at Itarsi and Jabalpur ^{each 2} and the applicant can be considered against these one of the ~~vacancies~~ vacancies.


5. On the other hand the learned counsel for the respondents admitted that at present there are vacancies of Scientific Assistant Grade-I at Jabalpur and Itarsi. According to him, these vacancies relate to the year 2004 and not ^{to} ~~of~~ 2003. Therefore, the respondents cannot consider her case for the vacancies which had arisen for the year 2004. The respondents have taken a decision by retaining her at Jabalpur if she foregoes her promotion to the next higher grade. The learned counsel for the respondents has also submitted a copy of the instructions issued by the Government in which it is mentioned that a person who is considered for promotion in a particular vacancy year can be considered for promotion/ appointment against the vacancy of that particular year only. Since the vacancies at Itarsi and Jabalpur relate to the year 2004, the applicant cannot be considered for appointment against the vacancies at these two stations i.e. Itarsi and Jabalpur.

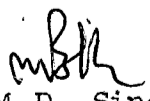
6. We have gone through the instructions produced by the respondents and we find that these instructions are relating to the vacancy year in which the DPC meet and it provides that regular DPC should be held for the vacancy occurring in a particular year. These instructions do not specifically provide that a person considered in a particular year has to be posted or appointed ^{for} promotion against that particular vacancy but it can be legally argued that any person who is considered for a particular vacancy year is required to be

promoted against that particular vacancy only. The learned counsel for the applicant on the other hand stated that these instructions are not applicable in the present case as the applicant has already been promoted and she has been posted/^{At} transferred to a far station at Bolangir.

7. We have given careful consideration to the rival contentions made on behalf of the parties and we find at present there are vacancies available at Jabalpur and Itarsi. Keeping in view the guidelines of transfer issued by the respondents on 7.4.2000, wherein it is provided that /as far as possible women employees should not be posted out of the station, if at all required, they should be posted to the nearest possible station, we direct the respondents that in case any of the selected person against the vacancy of 2004 is available and ^{who} does not insist his/her promotion/appointment in the Grade of Scientific Assistant Grade-I at these two stations i.e. Itarsi and Jabalpur, the respondents shall consider the case of the applicant for her promotion/appointment at one of these two stations mentioned above, within a period of six months. However, the order passed by the respondents dated 18th June, 2004 (Document No. 1) and 21st June, 2004 (Document No. 2) enclosed with the application for disposal of the original application will not be an impediment to take a decision by the respondents to promote/appoint the applicant at any one of the two stations i.e. Itarsi & Jabalpur.

8. With these observations, the Original Application stands disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman