

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.323/03

Indore, this the 29th day of September, 2004.

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

Manda Ade
W/o Shri Arvind Ade
Head Clerk
Tropical Forest Research Institute
R/o Qr.No.Plot No.53/2
Near Gour Post Office
Jabalpur (MP)

Applicant

(By advocate Shri Ajit Ade on behalf of
Shri Rohit Arya)

Versus

1. Union of India through
Secretary
Ministry of Environment & Forest
CGO Complex, Paryavaran Bhawan
Lodhi Road, New Delhi.
2. Director General
Indian Council of Forestry Research
Education, P.O. New Forest Dehradun.
3. Director
Tropical Forest Research Institute
Jabalpur(MP) Respondents.

(By advocate Shri Bhushan Adlok on behalf of
Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following main reliefs:

- (i) Direct the respondents to pay the arrears of salary with interest and compensation to the applicant in the interest of justice.
2. The brief facts of the case are that the applicant is presently working as a Head Clerk in Tropical Forest Research Institute, Jabalpur in the pay scale of Rs.5000-8000. She was due for promotion to the post of Head Clerk in the year 1991 but she was denied promotion for some extraneous reasons and with bad intentions, though she has been the senior most UDC in the establishment.



A DPC was convened for filling up the post of Head Clerk in March, 1995. There was no reason not to promote the applicant, she being senior most and the only eligible candidate, and an ineligible person namely one K.L.Shende was promoted as Head Clerk. The applicant filed a writ petition before the Hon'ble High Court (WP No.2659/94). This writ petition was travelled from single bench to division bench and ultimately the Hon'ble Supreme Court remanded the writ petition to LPA court and that court decided the WP on merit. The Hon'ble Division Bench passed order holding that the applicant is senior to respondent No.4 and it was further ordered to convene a review DPC to consider the case of the applicant. The applicant's claim for promotion as Head Clerk was considered and granted w.e.f. 7.3.95. The applicant is entitled for arrears of pay as she was willing to work on the promoted post but was kept away from the same by the authorities for no fault of her. Hence there is no reason or justification to deny the applicant the arrears of pay from 7.3.95 till October 2002. The applicant made a representation but to no avail. Thereafter she was served with the impugned communication dated 25th March 2003 denying her claim of arrears of pay. Hence the OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the respondents had given promotion to the applicant in compliance with the order passed by the Division Bench of the High Court but the arrears of pay and other allowances have not yet been paid while the applicant is legally entitled for these. Our attention is drawn towards JT 1999 (3) SC 205 State of Andhra Pradesh Vs.K.V.L.Narasimha Rao & Ors decided on 19th April 1999 in which it is held that when retrospective promotions are effected all benefits flowing



therefrom, including monetary benefits must be extended to an officer who has been denied promotion earlier. He has also drawn our attention to AIR 1991 SC 2010 Union of India & ors. Vs. K.V.Janakiraman & ors., decided on 27.8.91.

4. In reply, it is argued on behalf of the respondents that the applicant was duly promoted from the relevant date in compliance with the orders of the Hon'ble High Court of M.P. but the rules cited by her are not applicable and so she cannot get any relief claimed on the basis of the rules because these are not applicable in her case. So far as JT 1999 (3) SC 205 State of Andhra Pradesh Vs. K.V.L.Narasimha Rao & Ors. is concerned, in this ruling, it is held that 'when retrospective promotions are effected, all benefits flowing therefrom, including monetary benefits must be extended to an officer who has been denied promotion earlier. However, on the reorganisation of States a large number of officers stood allotted from different States to the newly formed State and their services had to be integrated on various principles and several agencies were involved in the same.' About AIR 1991 SC 2010, the learned counsel for the respondents argued that this ruling is about promotion and also sealed cover procedure. Hence it does not apply to the present case of the applicant. The counsel also argued that the Hon'ble High Court of M.P. in its judgement dated 3.8.02 in LPA No.215/97 had not given any such direction to the respondents to give arrears of salary etc. The applicant could have sought this relief at that stage also while she did not claim it. Hence the applicant is not entitled for the reliefs claimed.



5. After hearing the learned counsel for the parties and careful perusal of the records, we find that the facts of the ~~rules~~ ^{Doubling} cited by the applicant are not similar to the present case. We have perused the judgement dated 3.8.02 of the Hon'ble High Court of Judicature at Jabalpur in LPA No. 215/97 by the Division Bench and in its concluding para it is mentioned that " we have already held that the petitioner is senior to the respondent No.4. In that case, the petitioner would have been entitled to be considered, as she had the requisite qualification. Hence, we direct a review IPC should be convened to consider the case of the petitioner as well as that of the respondent No.4 within a period of three months from the date of receipt of the order and we hereby clarify that the experience gathered by the respondent No.4 would not be taken into consideration by the IPC". In this judgement of the Division Bench of the High Court, nothing is said about payment of arrears of salary etc.

6. In view of the foregoing discussion, we find that the OA has no merit and is liable to be dismissed. Hence the OA is dismissed.

(Mađan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठांकन सं. ओ/ज्या..... जवलपुर, दि.....
पत्रिलिपि अच्ये गिरा -

(1) विद्युत कंपनी द्वारा बनाए गए बोरियाशाहन, जबलपुर
 (2) आंदोलन के द्वारा बनाए गए ताउंडलल
 (3) राज्यव्यापार द्वारा बनाए गए बांदील
 (4) देशव्यापार द्वारा बनाए गए बांदील

Shri Rohit Arya HC 138
Shri Om Pandey HC 139

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BS