

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of April, 2011

Transferred Application No.54/2009
(SB Civil Writ Petition No.1109/2004)

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Shrimati Uma Pareek
w/o Dr. Rafan Kumar Pareek,
r/o 49, Abhishek Bhawan,
Shankar Nagar,
Amer Road, Jaipur

.. Applicant

(By Advocate: Shri R.C.Joshi)

Versus .

1. National Institute of Ayurveda,
Jorawar Singh Gate, Jaipur
through its Director.
2. Shrimati Pratibha Bhargava, U.D.C.,
National Institute of Ayurveda,
Jorawar Singh Gate,
Jaipur
3. Shrimati Maya Sharma, U.D.C.
National Institute of Ayurveda,
Joraar Singh Gate,
Jaipur.

.. Respondents

(By Advocate: Shri Anupam Agarwal, proxy counsel for Shri
M.D.Agarwal)



ORDER (ORAL)

Vide order dated 18.11.2009 passed by the Hon'ble High Court in S.B.Civil Writ petition No.1109/2004, the present case has been transferred to this Tribunal.

2. Brief facts of the case are that the applicant was initially appointed as Lower Division Clerk (LDC) on 4.7.1979 on the consolidated salary in the respondent No.1 institute and was given regular pay scale from 3.4.1980. After framing of service rules, which came into force w.e.f. 2.8.1982, type test and interview were conducted on 12.12.1985 by a regularly constituted committee and on the recommendations of this committee the applicant was appointed vide order dated 22.10.1986 and vide order dated 15.7.1988 a final seniority list of Lower Division Clerks was issued.

3. The grievance arose when junior to the applicant were confirmed vide order dated 22.2.1991. Hence, exclusion of name of the applicant from the confirmation list has been challenged by way of filing Writ Petition No. 2338/1991 before the Hon'ble High Court. The Writ Petition was partly allowed vide order dated 14.2.2002 against which Review Petition was filed by the applicant and the same was decided on 29.1.2003 with liberty to file fresh Writ Petition for consequential benefits of promotion on the post of U.D.C. w.e.f. 22.2.1991, the date her juniors were given promotion vide order dated 1.12.1993. It is submitted that name of the applicant was not considered for promotion because she was not confirmed. After confirmation order dated 15.4.1993 (Ann.A/8), the



applicant was considered for promotion to the post of U.D.C and she was promoted on the post of U.D.C. vide order dated 15.4.1993 (Ann.A/9) but seniority list of L.D.C. was never issued after the order dated 15.4.1993.

4. The applicant submitted a representation dated 3.3.2003 stating therein that she be promoted and confirmed on the post of U.D.C. w.e.f. 22.2.1991 i.e. the date her juniors were promoted and requested to issue seniority list of U.D.C.

5. Aggrieved and dis-satisfied with the inaction of the respondents and denial of promotion on the post of U.D.C. w.e.f. 22.2.1991 and non-issuance of seniority list of U.D.C., the applicant has preferred this OA seeking writ, order or direction directing the respondents to convene a Review DPC and consider case of the applicant treating her to be confirmed as LDC w.e.f. 22.2.1991 and appoint her on the post of UDC w.e.f. 22.2.1991, the date on which her juniors were promoted with all consequential and financial benefits. Further asked for writ, order or direction to respondent No.1 to issue seniority list of U.D.C. treating her as U.D.C. promoted w.e.f. 22.2.1991 above her juniors.

6. The learned counsel appearing for the applicant referred the judgment rendered by the Hon'ble High Court in S.B.Civil Writ Petition No.7045/1991 dated 22.3.2005 wherein the High Court dealing with the similar question of law and facts allowed the writ petition and the respondent Institute was directed to treat the petitioner to be promoted as U.D.C. w.e.f. 22.02.1991 with all



consequential benefits from the date his juniors (respondents No.2 to 4) were promoted as U.D.C.

7. Having carefully gone through the observations made by the Hon'ble High Court vide its judgment dated 22.3.2005 and upon hearing the rival submissions of the respective parties and examining the material available on record, we are of the view that the ratio decided by the Hon'ble High Court in Writ Petition No.7045/1991 wherein similar controversy before the Hon'ble High Court has been decided and respondents were directed to promote the petitioner w.e.f. 22.2.1991 and in the instant case the applicant is also claiming promotion w.e.f. 22.2.1991 with all consequential benefits from the date her junior respondents No. 2 and 3 were given.

8. Consequently, the present OA is allowed and respondent institute is directed to treat the applicant promoted as U.D.C. w.e.f. 22.2.1991 with all consequential benefits from the date her junior respondent No.2 and 3 were promoted as U.D.C.

9. The OA stands allowed in the aforesaid terms with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K. S. RATHORE)
Judl. Member

R/