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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 22.08.2012

OA No. 369/2012 with MA No. 182/2012 &
MA No. 206/2012

Mr. S.K. Saxena, counsel for applicant.
Mr. Tanveer Ahmed, counsel for respondents.

Learned counsel for the respondents is directed to place the original record for our perusal on the next date of hearing, which has been relied upon while re-fixing the seniority list under challenge.

Put up the matter on 11.09.2012 for hearing. I.R. to continue till the next date.

Certified copy of this order be made available to the learned counsel for the respondents.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

J. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

11/09/2012

OA NO. 369/2012 With M.A. NO. 182/12 &
M.A. No. 206/2012

Mr. S.K. Saxena, Counsel for applicant.
Mr. Tanveer Ahmed, Counsel for respondents.

Heard.
O.A. and MAs are disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

J. S. Rathore
[Justice K.S. Rathore]
Member (J)

*Ct not returned
by respondents
h*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 11th day of September, 2012

ORIGINAL APPLICATION No. 369/2012
With
MISC. APPLICATIONS NO. 182/2012 & 206/2012

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Gladys Dixon wife of Shri Subody, aged 54 years, Matron, Office of Chief Medical Officer, Northern Western Railway Hospital, Ajmer, resident of Plot No. 16, Shakti Nagar, Subhash Nagar, Ajmer.

... Applicant

(By Advocate : Mr. S.K. Saxena)

Versus

1. Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The Geneal manager (P), North Western Railays, Head Quarter Office, Jawahar Circle, Jaipur.
3. The Divisional Rail Manager (Establishment), North Western Railways, DRM Office, Ajmer.
4. The Chief Medical Officer, North Western Railways, Head Quarter Office, Jawahar Circle, Jaipur.
5. Nirupama Karmawat, Chief Matron, Northern Western Railway Hospital, Near Railway Station, Jaipur.

... Respondents

(By Advocate : Mr. Tanveer Ahmed)

ORDER (ORAL)

The applicant has filed this OA claiming for the following reliefs:-

- "(i) An appropriate or direction to the respondents quashing the impugned Order No. 871/EMD/1 dated 22.09.2011 (Annexure 1A) and order No. 871E/1/1/Gr 'B'/ANO (Medical) dated 12.10.2011 (Annexure 1B) and rejection order/noting dated

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09.04.2012 (Annexure 1C) passed by the General Manager (Personnel), North Western Railways, Head Quarter Office, Jaipur with consequential relief of placing the applicant at her original seniority as per seniority list dated 08.06.2011 (Annexure 6).

- (ii) An appropriate order or direction to quash any order passed during the pendency of this application adversely affecting the purpose of this application.
- (iii) An appropriate order or direction to the respondents, which this Hon'ble Court deems just and proper in the circumstances of the case.
- (iv) Cost of the application."

2. Learned counsel for the applicant submitted that the applicant is presently posted on the post of Matron in the office of Chief Medical Officer, North Western Railway Hospital, Ajmer. She was initially appointed as Staff Nurse on 05.05.1982. Thereafter, she was promoted on the post of Nursing Sister on ad hoc basis vide order dated 11.09.1990. Thereafter vide order dated 24.03.1994, the applicant was granted the pay scale of Rs.1640-2900/- (RP) on substantive basis on the post of Nursing Sister. Thereafter, the applicant was granted promotion on the post of Matron in the pay scale of Rs.2000-3200/- w.e.f. 31.05.1994 vide order dated 28.06.1994. The respondents published a seniority list dated 13.01.2005 of the incumbents holding the post of Matron Group 'D' for the purpose of selection to the post of Assistant Nursing Officer (ANO) in which the name of the applicant appears as sr. no. 34 and the name of private respondent no. 5 appears at sr. no. 36. (Annexure A/5). He further argued that respondents again issued a seniority list dated 08.06.2011 (Annexure A/6) in which the name of the applicant is at sr. no. 11 and the name of private respondent no.

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5 is at sr. no. ¹²~~15~~. Again the respondents issued a provisional eligibility list in July, 2011 (Annexure A/7) in which the name of the applicant is at sr. no. 11 and the name of private respondent no. 5 is at sr. no. 12.

3. Learned counsel for the applicant submitted that thereafter on 22.09.2011, the respondent no. 2 issued an impugned order whereby the date of promotion of respondent no. 5 in the pay scale of Rs.6500-10500 / Rs.9300-34800 + Grade Pay Rs.4600 was altered from 16.07.1994 to 01.03.1993 and consequent upon, the respondent no. 5 became senior to the applicant as she was placed below Smt. Ayodhya Malhotra and above Smt. I.B. Massy. He argued that the aforesaid amendment in the seniority list was made without any cogent reason or prior notice to the affected incumbents. Though a provision was made in the order dated 22.09.2011 to submit objections, if any, by the concerned incumbent within a period of 15 days failing which no objection/representation would be considered.

4. The applicant submitted the objection to the impugned order on 30.09.2011 through proper channel and the same was forwarded to the competent authority from where the said representation in original was returned to the applicant.

5. On 12.10.2011 (Annexure 1B), consequential order came to be passed wherein the provisional eligibility list for the

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selection of Grade B post of ANO was published wherein respondent no. 5 has been shown at sr. no. 7 and the applicant has been shown at sr. no. 1 of the Reserved List (Annexure B).

6. Being aggrieved of the illegal act of the respondents, the applicant preferred an OA No. 3/2012 before this Tribunal challenging the order dated 22.09.2011 (Annexure 1A), 12.10.2011 (Annexure 1B) and the advertisement dated 05.12.2011 (Annexure 10) on 02.01.2012. This OA was decided by the Tribunal vide order dated 04.01.2012 in which the respondents were directed to consider the representation of the applicant dated 30.09.2011, which was alleged to have returned to the applicant by the respondents. The said representation was rejected by the respondents vide order dated 09.04.2012 (Annexure 1C). He further argued that while rejecting the representation of the applicant, no consideration was made to the point made by the applicant in her representation dated 30.09.2011. He further argued that as the rejection order does not record any reason, therefore, it is arbitrary and it should be quashed and set aside. The seniority of private respondent no. 5 cannot be altered or given benefit from the back date. Therefore, the OA be allowed.

7. On the contrary, learned counsel for the respondents argued that for the promotion on the post of Assistant Nursing Officer Group 'B', a joint seniority list was prepared. Smt.

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Nirupama, Chief Matron, Jaipur, who was placed at seniority no. 12 of the seniority list made an application through proper channel submitting that her actual date of promotion in the grade of Rs.6500-10500 is 01.03.1993 whereas she has been given seniority treating the promotional date as 16.07.1994 in the pay scale of Rs.6500-10500. After verifying the correctness of the report, it was found that the promotional date in the pay scale of Rs.6500-10500 of Smt. Nirupama was 01.03.1993 and the same was approved by the competent authority and accordingly, vide letter dated 22.09.2011 instead of seniority no. 12, the Chief Matron, Nirupama, was placed in the seniority list above Smt. I.B. Massey and below Smt. Ayodha Mahlotra. Smt. Ayodha Mahlotra was at sr. no. 5 and Smt. I.B. Massey was at sr. no. 6 and Smt. Nirupama accordingly was given place between the above two candidates in accordance with law. There is no infirmity/illegality in the same. He further argued that the contents of letter dated 22.09.2011 clearly provides the reasons for amendment in the seniority list. The reasons are self speaking and as such, no prejudice is caused to the applicant. He further argued that objection sent by the applicant on 30.09.2011 (Annexure 19) was ^{replied} ~~reply~~ by the official respondents vide their letter dated 13.10.2011 (Annexure R/1). In compliance of the order of this Tribunal in OA No. 03/2012, the respondents issued a speaking order dated 09.04.2012 and the same was supplied to the applicant vide letter dated 15.05.2012. The official respondents have only rectified the mistake of

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seniority in respect of Smt. Nirupama. He further argued that seniority is determined on the basis of placement of a person in a particular pay scale and on the basis of date on which the person is granted benefit. Therefore, there is no infirmity in the order issued by the official respondents in revising the seniority list vide letter dated 22.09.2011. Therefore, the OA ^{has} no merit and *Anil Kumar* it should be dismissed with costs.

8. Vide order dated 22.08.2012, the respondents were directed to place the original record for perusal on the next date of hearing. In compliance of this order, today the respondents have placed the original record for our perusal.

9. Heard the learned counsel for the parties, after careful perusal of the relevant documents on record and the original record produced by the learned counsel for the respondents, we are of the view that the applicant has failed to make out any case for our interference in this OA. The learned counsel for the respondents argued that Smt. Nirupama, Chief Matron, private respondent no. 5 was placed at sr. no. 12 of the seniority list, made an application through proper channel submitting that her actual date of promotion in the grade of Rs.6500-10500/- is 01.03.1993 whereas she has been given seniority by treating her promotion order as dated 16.07.1994 in the pay scale of Rs.6500-10500/-. After verifying the correctness of the record, it was found that the promotional date in the pay scale of Rs.6500-

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10500/- of Smt. Nirupama was 01.03.1993 and the same was approved by the competent authority and accordingly, vide order dated 22.09.2011 instead of seniority no. 12, Smt. Nirupama was placed in the seniority list above Smt. I.B. Massey and below Smt. Ayodha Massey. We have perused the order dated 29.05.1998 in which the name of Smt. Nirupama appeared at sr. no. 6 and her post has been shown as Nursing Sister and this list has been made effective on 01.03.1993. This order was passed way back on 29.05.1998. However, due to some reasons, the date of promotion of private respondent no. 5 was shown as 16.07.1994 in the pay scale of Rs.6500-10500/- whereas vide order dated 29.05.1998, she was given promotion w.e.f. 01.03.1993 in the pay scale of Rs.6500-10500/- and on her representation, this mistake has been corrected. The order dated 29.05.1998 was also shown to the learned counsel for the applicant in the court. Thus on the basis of the averments made by the learned counsel for the respondents and also on the basis of the original record, produced before the Court, we are of the opinion that this OA has no merit and the respondents have correctly modified the seniority of private respondent no. 5.

10. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

11. Vide order dated 11.07.2012, this Tribunal had directed the official respondents to allow the applicant provisionally to

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appear in the examination for the post of Assistant Nursing Officer and to keep the result of the applicant in sealed cover. In view of the fact that the OA has been dismissed, the respondents need not to declare the result of the applicant

12. In view of the dismissal of OA, MA No. 182/2012 and 206/2012 are also disposed of accordingly.

Anil Kumar
(Anil Kumar)
Member (A)

J. K. S. Rathore
(Justice K.S.Rathore)
Member (J)

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