

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.1998/2017

New Delhi this the 1st day of June, 2017

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. A. Philipose,
Aged about 56 years,
Deputy Director,
Central Social Welfare Board,
Ministry of Women & Child Development,
Government of India,
Dr. Durgabai Deshmukh Samaj Kalyan Bhavan,
B-12, Qutab Institutional Area,
New Delhi-110603
R/o Room No. 303, H.No.79/1, Adhichini,
Sri Aurobindo Marg, New Delhi-110017 - Applicant

(By Advocate: Mr. SM Garg)

Versus

1. Union of India,
Through the Secretary,
Ministry of Women & Child Development,
Govt. of India, Shastri Bhawan,
New Delhi-110001
2. The Chairman,
Central Social Welfare Board,
Ministry of Women & Child Development,
Government of India,
Dr. Durgabai Deshmukh Samaj Kalyan Bhavan,
B-12, Qutab Institutional Area,
New Delhi-110603
3. The Executive Director,
Central Social Welfare Board,
Ministry of Women & Child Development,
Government of India,
Dr. Durgabai Deshmukh Samaj Kalyan Bhavan,
B-12, Qutab Institutional Area,
New Delhi-110603 - Respondents

ORDER (Oral)**Justice Permod Kohli:**

The applicant applied for the post of Project Officer in Central Social Welfare Board (CSWB). Interview for the post was conducted on 25.10.1994 at New Delhi. It is stated that the applicant received the information on 27.10.1994, i.e. after the date of interview, by a call letter dated 12.10.1994. The applicant made a representation requesting to provide him an opportunity to appear in the interview. He ultimately filed OA No. 1758/1994 before the Ernakulam Bench of the Tribunal. The selection made, consequent upon the interview, held on 26.10.1994, was stayed. On considering the reply filed by the respondents in OA No. 1758/1994, the Tribunal permitted the applicant to withdraw the Application with liberty to file a fresh one. The applicant thereafter filed a fresh OA No. 1233/1995. The applicant was permitted to appear in interview for the said post on 24.11.1995. The applicant was interviewed under the directions of the Court. The said OA was finally disposed of vide order dated 29.10.1996 by recording the following submissions of the respondents:-

“Applicant who is a contender for the post of Project Officer in the Central Social Welfare Board was interviewed on 24.11.95, in pursuance of the directions of this Tribunal dated 12.10.95. His grievance was that in the interview held on 25.10.94

for which he was called, he did not get the interview letter in time and so could not participate in the interview. Based on the second interview conducted for the applicant, respondents state that he had got an average mark of 73 based on which he could be selected for the post of Project Officer. Respondents state that since there is no post of Project Officer vacant under the general category, the applicant may be given an offer of appointment as soon as a vacancy under the general category occurs.

2. We record this submission of the respondents and dispose of the application. No costs.”

2. In the aforesaid directions, the Tribunal observed that the applicant has scored 73% average marks in the selection process. Since under the directions of the Court, the applicant was to be offered post as and when vacancy under the general category is available, the applicant was informed that no vacancy was available in the years 1997 and 2000. Finally, the applicant was offered the vacancy in the year 2006, vide letter dated 19.05.2006. He accepted the offer of appointment.

3. In the aforesaid offer letter, the applicant was placed on probation for a period of two years. The appointment was against a temporary post, though it contains a stipulation that it is likely to continue. The applicant submitted his willingness, accepting the conditions of the appointment and thereafter, joined the post as Project Officer on 02.06.2006. After his joining, the applicant made a representation dated 14.09.2006 to the

Chairperson, CSWB, requesting to fix his rank/position in the interview held on 25.10.1994 and to give him the seniority and other consequential benefits. This representation was followed by other representations dated 09.11.2006 and 20.11.2006. He was informed vide letter dated 17.04.2007 that since he was appointed against the direct recruitment post, his seniority had been fixed from the date of his joining, i.e. 02.06.2006 as Project Officer. The applicant thereafter sought some information under the Right to Information Act. The applicant made another representation dated 23.11.2007. This representation was also rejected on 06.02.2008. It is seen that not being satisfied, the applicant again sought some information under Right to Information Act and yet made another representation dated 23.09.2010 to the Executive Director, CSWB. The said representation also came to be rejected on 14.12.2010. The applicant was later promoted to the post of Deputy Director on 08.08.2012 and after the promotion, he made another representation dated 26.11.2012 followed by representations dated 15.06.2015 and 21.03.2016. The respondents have passed the impugned order dated 16.11.2016, rejecting all the representations of the applicant, in view of the earlier orders communicated on 17.04.2007, 25.10.2007, 06.02.2008 and 14.12.2010. It is this office memorandum

dated 16.11.2016 which is under challenge in the present OA.

4. The applicant is claiming seniority with effect from the date of the appointment of the candidates on the basis of interviews held on 25.10.1994 and 24.11.1995. The claim of the applicant is liable to be rejected on the following grounds:-

4.1 Admittedly, the applicant was not interviewed on 25.10.1994. Thus, his merit qua the other candidates cannot be considered. The applicant was especially interviewed under the direction of the Court on 24.11.1995 wherein marks were allotted to him as an individual without any comparative analysis with other candidates. Thus, his merit cannot be equated with the merits of the candidates interviewed earlier.

4.2 In OA No.1233/1995, the Tribunal only directed the respondents to offer to the applicant, a post in future, as and when vacancy in general category is available. There was no direction to grant any retrospective benefit on the basis of his merit in the selection process on comparison with other candidates. The judgment noticed by us hereinabove clearly indicates that the direction was for the future appointment without any linkage or lien with the

selection already held. The applicant has not placed on record the details of relief claimed in OA No. 1233/1995.

4.3 In the event, the applicant had made any prayer for his seniority on the basis of his merit in the selection and the Court has not granted, it is deemed to be rejected, and in the event, the applicant did not claim any seniority on that basis, he is not entitled to re-agitate the issue having failed to do so in earlier OA. Apart from that, the claim of the applicant was rejected in 2007, 2008 and 2010. He never agitated or approached the Court at the relevant time when his claim was, for the first time, rejected. In the meantime, he was also promoted to the next higher post. This OA is otherwise also hopelessly barred by time.

5. In view of the above circumstances, we do not find any merit in the OA. Dismissed, no order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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