

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

O.A. No.782/2014

Thursday, this the 25th day of July 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Indu Maheshwari
r/o 115, Sec-8, Faridabad
Haryana 121006

..Applicant
(Mr. M K Bhardwaj, Advocate)

Versus

UOI & others through

1. The Secretary
Ministry of Power
Govt. of India
Shram Shakti Bhawan, Rafi Marg
New Delhi
2. National Power Training Institute
Through its Director General
Sec 33, Faridabad, Haryana

..Respondents
(Mr. Amit Anand and Mr. Ramesh Kumar Shukla, Advocates)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was appointed as Assistant Director in National Power Training Institute (NPTI), which comes under the Ministry of Power, the 2nd respondent herein, in the year 1995. She was promoted to the post of Deputy Director on 28.03.2002. Promotion from that post is to that of Director, on completion of 4 years of regular service.

2. The applicant contends that though vacancies existed from the year 2011 onwards, the Departmental Promotion Committee (DPC) was not held in the year 2011-12 and it was conducted only in the year 2013. She contends that despite availability of large number of vacancies, two vacancies were kept aside and promotions were effected by convening DPC in January and August, 2013 and her seniors were promoted. It is stated that had the DPC dealt with those two vacancies, she could have stood a chance of being promoted.

3. The 2nd respondent issued the Vacancy Notice in January, 2014 proposing to fill 3 posts of Director, 9 posts of Professor and 10 posts of Assistant Professor. The applicant contends that on account of change of set up in the 2nd respondent, selection process has also undergone change and thereby her rights are adversely affected.

This O.A. is filed challenging the Vacancy Notice. The applicant also prays for declaration that the action of the respondents in proposing to fill the post of Director, now redesignated as Professor, by way of direct recruitment, is illegal, arbitrary and unjustified, and to direct them to consider the case of the applicant for promotion to the post of Director, in accordance with Rules, that were prevailing at the relevant point of time. Other ancillary reliefs have also been prayed.

4. The respondents filed counter affidavit opposing the O.A. It is stated that several vacancies were available in the post of Director in the year 2012 and they were filled by convening the DPC in January 2013. It is stated that the applicant was far below in the seniority list and accordingly, she was not selected and appointed. It is stated that two more vacancies arose in March and April, 2013 and they were filled by convening DPC on 06.08.2013, wherein two Deputy Directors, who were seniors to the applicant, were selected.

5. The respondents stated that two vacancies of Director lapsed on account of their remaining unfilled beyond a period and they were revived only through order dated 31.07.2013. It is also stated that by that time, the entire set up in NPTI has undergone a change, in view of the adoption of the norms stipulated by the AICTE, whereunder the post of Director was equated to that of Professor, the post of Deputy Director to that of Associate Professor and Assistant Director to that of Assistant Professor. It is further stated that the applicant was not entitled to be considered for appointment / promotion to the post of Professor in view of the fact that she did not acquire the PhD qualification, as stipulated under the relevant Rules.

6. The applicant filed a rejoinder disputing various facts stated by the respondents in their counter affidavit.

7. We heard Mr. M K Bhardwaj, learned counsel for applicant and Mr. Amit Anand, learned counsel for respondents, at length.

8. It is not necessary to refer to various facts that preceded up to the year 2012. It is a matter of record that in January, 2013, the DPC was convened to select candidates for seven posts of Director. At that time, the applicant was far below in the seniority list. That was followed by convening of another DPC on 06.08.2013, wherein two more candidates were selected. There again, the selected candidates were seniors to the applicant.

9. Though two posts of Director were revived on 31.07.2013, they could not be dealt with by the DPC, which met on 06.08.2013. Added to that, by the time the posts were revived, a totally different legal regime came into existence. The posts were re-designated and method of selection was also changed. It is at that stage, that the present O.A. is filed.

10. Out of several reliefs claimed by the applicant in the instant O.A., first two have become infructuous, inasmuch as the respondents have restored the posts, as they existed prior to June, 2013. The change of nomenclature and the method of selection, that was introduced in the year 2013, was given-up and the earlier position was restored. This was followed by the selection and appointment of the applicant as Director on

21.08.2018. Therefore, the O.A. has virtually become infructuous since the applicant has got the relief.

11. Across the Bar, extensive arguments are extended, stating that the applicant is entitled to be appointed with effect from the date on which the vacancies had arisen. We are not inclined to deal with the question and if the applicant feels so aggrieved, she may make a representation in this behalf.

12. We do not find any merit in this O.A. It is accordingly dismissed. However, if any, representation is made by the applicant, the respondents shall pass appropriate order, preferably within three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

July 25, 2019
/sunil/