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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.492/2019

Date of Decision: 18th July, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Mrs. Yojana Nitin Urankar,
Age - 42 years, Chargeman (Mech-IT)
Ordnance Factory, Dehu Road,
Pune - 412 101.
R/at. Sr. No.74,
Plot No.19/20, Adarshnagar,
Kiwale, Dehu Road,
Pune - 412 101.

... **Applicant**

(By Advocate Ms. Annie Nadar)

VERSUS

1. The Union of India, through
The Secretary,
Ministry of Defence,
Department of Defence Production,
South Block, New Delhi - 110 001.
2. The Chairman and Director General,
Ordnance Factories,
Ordnance Factory Board,
Ayudh Bhavan, 10-A,
S.K. Bose Road, Kolkata - 700 001.
3. The General Manager,
Ordnance Factory, Dehu Road,
Pune - 412 101.
4. The Central Vigilance Commissioner,
Central Vigilance Commission,
Satarkata Bhavan,
A-Block, GPO Complex,
New Delhi - 110 023. ... **Respondents**

ORDER (ORAL)PER: RAVINDER KAUR, MEMBER (J)

Today when the case is called out for Admission, heard Ms. Annie Nadar, learned counsel for the applicant. We have carefully perused the case record.

2. This application has been filed on 16.07.2019 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- (a) To allow the Original Application.*
- (b) To quash and set aside the impugned order/show cause notice dated 29.06.2019 issued by the respondent No.3,*
- (c) To pass any other orders as this Hon'ble Tribunal deems fit in the facts and circumstances of the case;*
- (d) To award the cost of application.*

3. The applicant, in pursuance to the Advertisement No.ADV/01/03/OFDR in Employment News Weekly dated 13-19 December, 2003, inviting applications for direct recruitment to Group 'C' and 'D' posts, applied on 16.12.2003 for the post of LDC under general category. She successfully qualified the preliminary selection test. A copy of the result is at Annex A-5. The result was declared on 30.01.2006. However, her name was not there in the select list.

Consequently, she filed an RTI application on 21.02.2006 (Annex A-7) and received reply dated 31.03.2006 informing that she had secured 92 marks in the main examination whereas the last candidate selected for the post of LDC from General category had secured 93 marks.

4. In the meantime on 18.03.2006, the applicant was appointed to the post of Junior Clerk at Shree Chanakya Education Society's Indira Group of Institutes, Pune vide appointment order dated 14.03.2006 (Annex A-8).

5. Subsequently one Shri Sanjeev Ambastha, a candidate selected under the general category in pursuance to Advertisement No.ADV/01/03/OFDR informed the respondents that he was not interested to join as LDC. It resulted in one vacancy under the general category. As per letter dated 28.12.2006 (Annexure A-10) issued by the respondents, the applicant was considered for appointment against that vacant UR post, subject to verification of her PVR from the Civil authorities.

6. Consequently the applicant tendered her resignation on 10.01.2007 to the office of the Indira Group of Institutes, Pune giving one

month's notice. She was issued appointment letter dated 15.02.2007 for the post of LDC by respondent No.3, which was accepted by her and she joined the office of respondent No.3 as LDC on 21.02.2007. She completed probation period of two years and was confirmed to the post of LDC w.e.f. 21.09.2009 vide order dated 16.12.2010. Thus she became a permanent employee of the respondents.

7. Thereafter the applicant, on qualifying the Limited Departmental Competitive Examination was promoted to the post of Chargeman w.e.f 18.07.2012 vide promotion order dated 23.07.2012. However, she was issued show cause notice dated 25.07.2014 seeking to revert her since she did not possess the requisite qualification for the post of Chargeman. Against this show cause notice, she preferred OA No.457/2014, which was disposed of vide order dated 08.01.2019 directing the respondents to dispose of her representation within a period of 12 weeks. The representation was rejected on 11.04.2019 by the respondents and she was reverted to the post of LDC.

8. The applicant preferred another OA No.291/2019 challenging the impugned reversion order dated 11.04.2019 on which interim relief was granted to her. In the meantime, she has been issued another show cause notice dated 29.06.2019, the subject matter of the OA, stating that her initial appointment to the post of LDC was irregular as her name did not figure in the list of successful candidates and she was wrongly appointed to the post of LDC. Against it, she has made representation dated 11.07.2019 which is still pending disposal with the respondents.

9. The applicant is apprehending that immediately on disposal of the representation, her service may be terminated by the respondents and thus she has prayed that the respondents be restrained from taking any action against her in furtherance of the impugned order dated 29.06.2019 i.e. show cause notice.

10. We have heard learned counsel for the applicant at length. Though we are conscious of the fact that simply issuance of a show cause notice does not give rise to any cause of action as it does not amount to an adverse order which

affects the rights of any party. However, in view of the peculiar facts and circumstances of this case, it is observed that the respondents themselves had placed the applicant in the waiting list (Annex A-10) for the post of LDC and after the selected candidate namely Shri Sanjeev Ambastha refused to join, they on their own offered appointment to the applicant vide Annex A-13 way back in the year 2007.

11. In the show cause notice there is no allegation that the applicant had got appointment to the concerned post by misrepresentation or fraud. In this facts and circumstances of the case, therefore it is appropriate to issue necessary direction to the respondents. Consequently, the respondents are directed to consider and dispose of the representation of the applicant dated 11.07.2019 as per law by a speaking and reasoned order within a period of four weeks from the date of receipt of a certified copy of this order and to communicate such order so passed to the applicant within one week thereafter.

12. We also direct the respondents not to give effect to the order, if any, to be passed

against the applicant in pursuance to the show cause notice dated 29.06.2019 for one week of communicating such order to the applicant, so that in case she has still any grievance, she can approach the appropriate forum.

13. In the aforesaid terms, the Original Application is disposed of at the admission stage itself. No order as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai) / 11
Member (A)

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JD
22/7/19

