

16.

(M)

August 9, 2004

MA-903/2004 in OA-164/2003

Present: Shri G. D. Bhandari, counsel for applicant

Smt. Harvinder Oberoi, counsel for respondents

MA-903/2004

Heard the learned counsel for the parties on MA-903/2004 in OA-164/2003. This MA has been filed under Section 27 of Administrative Tribunals Act, 1985 for execution of the order passed by the Tribunal in the OA, referred to above, on 31.10.2003. While the learned counsel for applicant has contended that the respondents have taken no action on the direction issued by the Tribunal in its order stated above, learned counsel for respondents has stated that in obedience of the directions issued by the Tribunal, the respondents-department had already considered the case of the applicant keeping in view the OM dated 5.5.2003 issued by the DOPT. A copy of their reply in the matter had been sent by Registered Post, which was not delivered. However, the same has subsequently been sent by the Speed Post and the registered AD, which was duly acknowledged by the applicant also. Even though no date is specifically stated in the acknowledgement, the learned counsel states that the same has been delivered on 11.3.2004, which, according to her, must have been <sup>dispatched</sup> ~~received~~ by the applicant prior to the filing of the MA, i.e., on 23.4.2004. She, therefore, contends that the applicant is not fair in making an averment that no action as yet has been taken by the respondents on the directions of the Tribunal prior to the filing of the MA.

B

On the query of the Tribunal as to whether the respondents have, in keeping with the observations made, considered the case of the applicant for two subsequent years, the learned counsel has contended that the respondents have considered her case for the year 2004 along with that of another candidate but for want of vacancy in the direct recruitment quota, it has not been possible for them to offer her any appointment. The communications sent to her, however, do not indicate that they will be considering her case during the year 2005 as well keeping in view the spirit of the OM dated 5.5.2003. Learned counsel for respondents at the Bar has contended that the case of the applicant will be considered once again for the third and final year, i.e., 2005 in keeping with the instructions on compassionate appointment.

MA is disposed of in the above terms.

Naik  
( S. K. Naik )  
Member (A)

/sunil/