

(2011) 01 DEL CK 0331

In the Delhi High Court

Case No : Writ Petition (C) No. 8755 of 2010

Delhi Development Authority and Another

APPELLANT

Vs

Smt. Laxmi Khurana

RESPONDENT

Date of Decision : 07-01-2011

Acts Referred:

Citation : (2011) 01 DEL CK 0331

Hon'ble Judges : Veena Birbal, J;Anil Kumar, J

Bench : Division Bench

Advocate : Indra Pratap Singh, for the Appellant; Nemo, for the Respondent

Judgement

Anil Kumar, J.—The Petitioners, Delhi Development Authority and Anr., have challenged the order dated 14th July, 2010 passed in OA No. 1458 of 2008, titled "Smt. Laxmi Khurana v. Delhi Development Authority and Anr." directing the Petitioners to consider the claim of the Respondent as Senior Hindi Translator in accordance with the recruitment rules, and in case of her being declared fit otherwise, offer promotion to her at least from 2001 with notional seniority.

2. By impugned order dated 14th July, 2010, the Petitioners were directed to consider the claim of the Respondent within a period of three months. Learned Counsel for the Petitioners contends that since a contempt petition has been filed by the Respondent, the above noted writ petition has been filed by the Petitioners.

3. Learned Counsel for the Petitioners has further contended that the Respondent does not have any claim for promotion to the post of Senior Hindi Translator w.e.f. 2001, as per recruitment rules prevailing at that time. However, since the ratio has now been fixed by resolution No. 54 of 2008 dated 23rd July, 2008, the claim of the Respondent to the promotion to the post of Senior Hindi Translator would be considered at appropriate time as has been categorically stated in the grounds in the petition filed on behalf of the Petitioners.

4. Since the Petitioners themselves have contended that ratio has been fixed by

resolution No. 54 of 2008 dated 23rd July, 2008 and her claim to the promotion to the post of Senior Hindi Translator would be considered and as the direction of the tribunal is that the claim of the Respondent as Senior Hindi Translator be strictly considered in accordance with the recruitment rules and in case of the Respondent being declared fit otherwise, she may be offered promotion at least from 2001 with notional seniority, the order of the tribunal cannot be termed to be illegal or unsustainable or require any interference in the facts and circumstances.

5. The tribunal while passing the order dated 14th July, 2010 has held that the Respondent comes in feeder category for seniority of Hindi Translator and non-consideration of her claim despite acquiring eligibility in 1992 is an infraction of her right. Referring to the ratio of Union of India (UOI) and Others Vs. Shantiranjana Sarkar, holding that the delay in filing the original application should not be held to be a bar in granting an equitable relief as the Union of India being a benevolent litigant cannot be permitted to take advantage of its own wrong. It has been further held that though the promotion cannot be granted from the date of accrual of vacancies, but in the facts and circumstances as Respondent's claim has not been considered for almost 18 years, it will be appropriate to grant her notional seniority from 2001 in case the Respondent is entitled for her claim to be a Senior Hindi Translator in accordance with recruitment rules.

6. In the facts and circumstances, the learned Counsel for the Petitioners is unable to point out any such illegality or unsustainability in the order of the tribunal which will require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The Tribunal had granted the time of three months to the Petitioners to consider the claim of the Respondent as Senior Hindi Translator in accordance with the recruitment rules, and in case of her being declared fit otherwise, offer promotion to her at least from 2001 with notional seniority. No reason has been disclosed by the Petitioners as to why her claim has not been considered by the Petitioners until now, though three months time granted by the Tribunal expired on 13th October, 2010. If the direction of the Tribunal has not been complied with and a contempt petition has been filed by the Respondent that will not be a ground for the Petitioners to maintain the present writ petition. In the facts and circumstances the learned Counsel for the Petitioners has failed to make out any grounds for interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition in the facts and circumstances is without any merit and, it is therefore, dismissed.