
(2020) 09 CAT CK 0091

In the Central Administrative Tribunal

Case No : Original Application No. 1353 Of 2020

Madhurika Rao

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 30-09-2020

Acts Referred:

Citation : (2020) 09 CAT CK 0091

Hon'ble Judges : R.N. Singh, Member (J); Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Tushar Ranjan Mohanty, R.K. Jain

Final Decision : Dismissed

Judgement

R.N. Singh, Member (J)

1. Heard the learned counsel for the applicant.

2. Shri Mohanty, learned counsel for the applicant, submits that the present OA has been filed by the applicant against inaction of the respondents in not granting promotion to the applicant to the vacant post of Adviser (Systems), a Director level post, despite the fact that the applicant is eligible to be appointed to the said post. The applicant has prayed for the following reliefs in the present OA:-

"8.1. to allow the present application;

8.2. to direct the Respondent to consider the case of the Applicant for appointment to the post of Adviser (Systems) that is vacant since long;

8.3. to grant salary and all allowances for the post of Adviser (Systems) from the date of filing of the OA, within a specified period;

8.4. to issue any such and further order/directors this Hon'ble Tribunal deems fit and proper in the circumstances of the case; and

8.5. to allow exemplary costs of the application."

3. At the outset, Shri Mohanty, learned counsel for the applicant has very fairly submitted that the post under reference is not a promotional post. He has further added that the said post is also not a cadre post. Though he submits that the applicant has made several representations to the respondents, however, one of his representations (Annexure A-7) was disposed of by the respondents vide Office Memorandum dated 25.2.2016 (Annexure A-8) and thereafter the applicant has not chosen to approach this Tribunal. Rather the applicant has kept on making representations. He fairly admitted that though the applicant is not having any enforceable right to be promoted to the said post in view of the extant Recruitment Rules, however, in the case of one Mr. Subhash Chand, DPA Grade 'A', the respondents had promoted him with the stipulation that the post will lapse after superannuation of the promoted incumbent. In this regard, he invited our attention to the averments in para 4.14 of the OA. He also submitted that the applicant is likely to retire on attaining the age of superannuation on 30.11.2020 and keeping in view these facts, he restricts his prayer only to the extent that the respondents may be directed to consider the applicant's representation dated 1.5.2020 (Annexure A-11) and to dispose of the same in a time bound manner.

4. We have heard the learned counsel for the applicant and we have perused the pleadings on record. It is evident from paras 4.12 and 4.13 of the OA that the representation dated 1.5.2020 (Annexure A-11) made by the applicant and reply thereto given by the Department on 21.8.2020 that it was informed to the applicant that since the matter of winding up of the Tariff Commission is under consideration, the proposal of creating sixteen posts of Tariff Commission is kept in abeyance until the final decision on winding up of Tariff Commission is taken.

5. Shri Mohanty, learned counsel for the applicant further submitted that the said communication is not received by the applicant. However, such decision of the respondents is not admittedly challenged by the applicant in the present OA.

6. At this stage, Shri Jain, learned counsel for the respondents, who appears on advance service, submitted that the OA is not maintainable inasmuch as the applicant has not been able to show that he has any enforceable right to be transferred or promoted to the post under reference.

7. At this stage, Shri Mohanty, learned counsel for the applicant, seeks permission to withdraw the present OA with liberty to the applicant to make an appropriate representation before the competent authority for consideration and disposal thereof in a time bound manner. Permission is granted.

8. The present OA stands dismissed as withdrawn with liberty in accordance with law. There shall be no order as to costs.