
(2019) 11 CAT CK 0033

In the Central Administrative Tribunal

Case No : Transfer No. 67 Of 2013, 68 Of 2018

Meenakshi Shukla

APPELLANT

Vs

Director Of Education And Ors

RESPONDENT

Date of Decision : 14-11-2019

Acts Referred:

Citation : (2019) 11 CAT CK 0033

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : AK Singh, Anupama Bansal

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The facts of these two TAs are similar and accordingly, they are disposed of through this common order.

2. The applicant in TA No. 67/2013 joined the services of the Municipal Corporation of Delhi as Assistant Teacher in the year 1991 and her husband, the applicant in TA No. 98/2013 in the year 1993. Promotion from that post is to that of Trained Graduate Teacher (English). They made several efforts to get promoted. Through an order dated 17.11.2000, the concerned authority promoted several teachers to the post of TGT. The names of the applicants did not figure therein. Therefore, they filed CWP No. 7653/2000 before the Hon'ble High Court of Delhi. The said Writ Petition was dismissed on 29.05.2011 directing the applicants and other similarly situated persons to make representations. On such representations being made, the respondents passed the order.

3. Not satisfied with the same, the applicant and her husband filed CCP No. 395/2001. The Hon'ble High Court has taken a view in the said CCP that the denial of promotion to the applicants was on account of their not being placed in the seniority list, and unless the seniority list covering the period from 1991 to

1994 is published, no relief can be granted to them. Directions were issued to the respondents to prepare the seniority list within a period of two months through an order dated 05.02.2004. The applicants were permitted to challenge the seniority list, if they feel aggrieved with it, and the Contempt Case was closed.

4. The applicant filed Writ Petition with a prayer to direct the respondents to include the name of the applicants in the order dated 17.11.2000 through which the promotion to the post of PGT was effected. The Writ Petitions were transferred to this Tribunal and numbered as T.A.s.

5. The applicants contend that several teachers junior to them were promoted and the respondents have committed illegality in denying them promotion to the post of TGT. It is also mentioned that the respondents have identified some posts with reference to the gender and the same is impermissible in law. Other grounds are also pleaded.

6. On behalf of the respondents, separate counter affidavits are filed opposing the prayers made in the TAs. An objection is also raised as regards the maintainability of these TAs. It is stated that the applicants were not promoted on account of the fact that there were several seniors to them and the Hon'ble High Court has also not satisfied with the plea of the applicants. It is stated that the seniority list was published in the year 2004 in compliance with the order passed by the Hon'ble High Court and as long as that is not challenged in accordance with law, there is no way, relief can be granted to the applicants.

7. We heard Mr. A.K. Singh, learned counsel for the applicant and Mrs. Anupama Bansal, learned counsel for the respondents.

8. This is the second round of litigation by the applicants.

Earlier they filed CWP No.7563/2000 before the Hon'ble High Court of Delhi, feeling aggrieved by the denial of promotion. Though the applicants challenged the non-inclusion of their names in the order of promotion dated 17.11.2000, the Hon'ble High Court did not find any fault with that order of promotion. The nature of disposal given to the said Writ Petition as under:-

"In these circumstances, the interim orders passed heretofore are recalled. The respondents will keep ten posts vacant since Learned Counsel for the petitioners informs that their eight other petitioners who have assailed the action of the respondents on the very same ground. The petitioners will file their representation should be sent by Registered A.D. post as well as by personal delivery in the office of Respondents 2 to 4. Thereafter, the Respondents shall consider the representations and dispose off them by speaking orders within a period of three weeks. As in the case of these petitioners, since the Counsel of the other petitioners is the same, those other petitioners would be well advised to follow the same procedure. Various other teachers, who have not been promoted as a consequence of the interim orders passed by this Court, have

sought impleadment in this petition. This exercise is unnecessary since their interests are being adequately safeguarded by the respondents and because the present petitions are disposed off in a manner which does not cause any prejudice to any of the other teachers.

The petition and all pending applications are disposed off in the above terms."

9. From the above, it becomes clear that except the applicants were permitted to make representations, the Hon'ble High Court did not find any fault with the order of promotion dated 17.11.2000. The applicants cannot challenge that order of promotion at this stage, be it from the point of view of res judicata, or laches.

10. The applicants filed CCP No. 395/2001 complaining that the order passed by the respondents on the representations made by them runs contrary to the order passed in the Writ Petition. Even that contention was not accepted. In its order dated 05.02.2004, the Hon'ble High Court observed as under:-

"In view of the aforesaid position, I am of the considered view that no purpose would be served by continuing the contempt proceedings, the MCD should finalize the seniority list within a maximum period of 2 months from today. This is the seniority list for the period 1991-94, which concerns the petitioners. On finalization of the seniority list, the same shall be forwarded to the Govt. of NCT of Delhi for necessary action within a period of 15 days of finalization of the seniority list and the Govt. of NCT of Delhi will take action in pursuance thereto within a maximum period of 1 month of receipt of such seniority list.

In case the petitioners are aggrieved by the fresh seniority or non-grant of any consequential benefit, it will be open to the petitioners to initiate appropriate proceedings in accordance with law for redressal of their grievances.

The contempt petitions stand disposed of in the aforesaid terms."

11. The respondents did publish a seniority list on 22.04.2004 covering the period 1991 to 1994. Though it was left open to the applicants to challenge the seniority list, they have not chosen to do so. At this length of time, the question of inclusion of the name of the applicants in the order of promotion dated 17.11.2000 does not arise.

12. We do not find any merit in these two TAs. They are accordingly dismissed. There shall be no order as to costs.