
(2009) 04 SHI CK 0034
In the High Court Of Himachal Pradesh

Smt. Shanti Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-04-2009

Acts Referred:

Citation : (2009) 04 SHI CK 0034

Hon'ble Judges : Surjit Singh, J;R.B. Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Surjit Singh, J.—Petitioner seeks judicial review of order dated 29th October, 2004, passed by Central Administrative Tribunal, Chandigarh Bench, in Original Application No. 949-HR of 2004, whereby her prayer for quashing the order of her reversion, Annexure A-4, dated 13th October, 2004, has been dismissed.

2. Admitted facts are like this. Petitioner Shanti Devi was working as Assistant in Regional Research Centre at Shimla. In the year 2003, one post of Assistant Administrative Officer, to be filled from amongst the Assistants working in the said Research Centre, fell vacant. Departmental Promotion Committee meeting was held for promoting one of the Assistants working in the said Research Centre to the said vacant post of Assistant Administrative Officer. There was an Assistant senior to the petitioner against whom departmental proceedings were pending, at that time. His name was Roshan Lal. Said Roshan Lal and the petitioner, and perhaps some more Assistants working in Research Centre at Shimla, were considered for promotion. Since departmental proceedings were pending against Roshan Lal, sealed cover procedure was followed in his case. Petitioner, who was next to said Roshan Lal in order of seniority, was selected and appointed as Assistant Administrative Officer. The appointment order clearly stated that her appointment was subject to the result of departmental proceedings going on against said Roshan Lal, who was senior to her, in the cadre of Assistants. Her appointment was made in October, 2003.

3. Lateron, charges against said Roshan Lal were dropped and he was exonerated. Sealed cover, with regard to assessment of his merit, was opened and it was found that had the departmental proceedings not been there against him, he would have been promoted. Consequently, vide order dated 13th October, 2004, said Roshan Lal was promoted and the petitioner, whose appointment was subject to the result of the departmental proceedings pending against said Roshan Lal,, was reverted to the post of Assistant.

4. Petitioner challenged the order of her reversion, on the grounds that there were two other persons, who were junior to her in the rank of Assistant Administrative Officer and that by following the rule of "last come first go", one of those two Assistant Administrative Officers should have been reverted. It was also her contention that the order of reversion had been passed without following the principles of natural justice and, hence, it was bad in law.

5. Neither of the two submissions made on behalf of the petitioner found favour with the learned Tribunal and consequently the Original Application was dismissed. Petitioner has now sought the review of this order of the learned Tribunal.

6. We have heard the learned Counsel for the parties and perused the record.

7. We do not find any merit in either of the two grounds on which the petitioner challenged her reversion order. Reasons are that the promotion of the petitioner, though on regular basis, was provisional, being subject to the result of the departmental proceedings pending against Roshan Lal, an Assistant senior to her. It is not in dispute that charges against said Roshan Lal had been dropped and he was exonerated and was promoted, on the basis of assessment of merit by the same Departmental Promotion Committee and in the same merit assessment process, in which petitioner's merit was assessed and she was selected. Now, when after his exoneration Roshan Lal became entitled to promotion and was so promoted vide order dated 13th October, 2004, the petitioner could not claim to continue to hold the post of Assistant Administrative Officer, as her appointment letter contained a condition that the appointment was subject to the result of the departmental proceedings pending against said Roshan Lal.

8. Second submission made by the petitioner is also without merit. Promotions to the post of Assistant Administrative Officer, which is an All India cadre, are made from amongst the Assistants, on the basis of their inter-centre/institute seniority. There was only one vacancy of Assistant Administrative Officer available for the Assistants of Shimla Centre against which the petitioner was appointed on provisionally. The other two persons, over whom the petitioner claims seniority, as Assistant Administrative Officer, were from other regions/centres and they were promoted against the vacancies available for the Assistants of those regions/centres and, hence, they could not have been reverted, when Roshan Lal, on being exonerated became entitled to be promoted. In view of the abovestated position, we find no merit in the present writ petition. The same is,

therefore, dismissed.