
(2005) 117 DLT 248 : (2005) 80 DRJ 140 : (2006) 1 SLJ 115

Delhi High Court

Case No: WP (C) 1479, 1480, 1481 and 1482 of 2005

Union of India (UOI)
and Others

APPELLANT

Vs

Smt. Sheela Rani

RESPONDENT

Date of Decision: Jan. 28, 2004

Citation: (2005) 117 DLT 248 : (2005) 80 DRJ 140 : (2006) 1 SLJ 115

Hon'ble Judges: V.K. Jain, J; J.P. Singh, J

Bench: Division Bench

Advocate: R.N. Singh, for the Appellant; Nemo, for the Respondent

Final Decision: Dismissed

Judgement

Vijender Jain, J.

By filing this petition the petitioner has impugned the order passed by the Tribunal on the ground that the order of the Tribunal is contrary to the principle laid down by the Supreme Court. Counsel for the petitioner has relied upon the decisions of Supreme Court on The Divisional Manager, APSRTC and Ors v. P.Lakshmoji Rao and Ors. 2004(1) SCALE, State of Haryana and Anr v. Tilak Raj and Ors. 2003 (5) SCA 251 [State of Haryana and Others Vs. Jasmer Singh and Others](#). On the basis of the aforesaid judgments of the Supreme Court, it is contended before us that the impugned order has not taken into consideration the aforesaid dictum laid down by the Supreme Court.

2. We have carefully perused the record of the case. There is obvious fallacy in the arguments of the petitioner as from the fact discernible in this case the authority cited by the learned counsel for the petitioner does not support the petitioner. It is an admitted case that the respondent was appointed on 17.11.1982. She was working as an enquiry clerk. After more than 17 years of services her services were neither regularised nor any benefit was given to her. The respondent filed an OA No. 27 7/1999 before the Central Administrative Tribunal which directed the petitioner to consider the respondent's case for regularisation. In spite of the direction of the Tribunal to consider the regularisation of

the respondent the respondent's request for regularisation was rejected. It was only when a contempt petition was filed by the respondent being CCP No. 194/2001 the respondent was regularised as a Mate with effect from 16th September, 2001. While disposing of the contempt petition the Tribunal observed as follows:-

"In the light of the aforesaid ruling, which had not been shown to us to have been stayed, set aside or modified, we direct respondents to reconsider applicant's case for grant of regularisation w.e.f. date of her initial appointment i.e. 17.11.1982 as she has been continuously working w.e.f. that date."

3. The Tribunal considered the arguments of the respondents raised on the basis of the decision in the case of P.M. Augustin v. Union of India and Ors. which has been distinguished by the Tribunal in the impugned order. The Tribunal has also noticed that services of one Chander Bhan who was similarly placed as that of respondent has been regularised from the date of initial appointment. Whereas on the parrot like averments made before us as well as before the Tribunal that there was no regular category of enquiry clerk in the Department, the service of the respondent has not been regularised from the date when she had been appointed i.e, on 17.11.1982. As there was no post of enquiry clerk, the petitioner had appointed the respondent as Mate that to of on 26th September, 2001. In spite of the fact that there was no post of enquiry clerk, the petitioner has appointed the respondent as Mate from 26th September, 2001. Then we see no reasons as to why the respondent ought not to have been appointed on the regular basis from the time she has rendered services with effect from 17.11.1982. The Tribunal has noted that she was regularised from the earlier date and she was not entitled to pay allowances to that period. The only benefit which is proposed to be granted to her on account of regularisation from back date is for the counting of the services for pensionary benefits.

4. Taking into consideration, the petitioner's stand with regard to the regularisation of one Chander Bhan, the Tribunal had rightly held that there cannot be any discrimination made between two employees. Since the respondent has been admittedly working from 17.11.1982, it was immaterial as to what designation was given to the respondent. Therefore, we do not find any infirmity with the quashing of the order dated 14th January, 2003, by the Tribunal.

5. There is no merit in the writ petition.