

Beena Chattree Vs. D.D.A.

Beena Chattree Vs. D.D.A.

SooperKanoon Citation : sooperkanoon.com/714678

Court : Delhi

Decided On : May-01-2006

Reported in : 130(2006)DLT91; 2006(90)DRJ257; 2007(1)SLJ329(Delhi)

Judge : S. Ravindra Bhat, J.

Appeal No. : W.P. (C) 15518/2004

Appellant : Beena Chattree

Respondent : D.D.A.

Advocate for Def. : Alpana Poddar, Adv.

Advocate for Pet/Ap. : J.P. Singh, Adv

Disposition : Petition allowed

Judgement :

S. Ravindra Bhat, J.

1. Issue Rule. Ms. Alpana Poddar, counsel for respondent waives notice of Rule. With consent of counsel for the parties the petition was heard finally.

2. The controversy in this case is as to the appropriate designation of the Petitioner and the fixation of her seniority with the Respondent (hereafter referred to as 'the DDA').

3. The Petitioner joined the services of DDA; she was appointed on compassionate appointment on 4.4.1989 in the pay scale of Rs. 1400-2300. She was posted in the Welfare Section and asked to discharge the duties of Assistant Welfare Officer. Some controversy has been raised as to whether the Petitioner worked as Assistant Welfare Officer or whether she was required to discharge the work of Field Investigator.

4. This Court had occasion to examine the collateral issue pertaining to the Petitioner's services in an earlier writ petition namely WP(C) 2512/1989. In that case her appointment had been challenged by another serving official, working as Field Investigator in the Planning and Agricultural Department of the DDA. His grievance was that the Petitioner's appointment was likely to affect his chances of promotion and adversely impact upon his seniority. The Court recorded that there was no post of Field Investigator in the Welfare Department but that there other posts such as Staff Welfare Officer, Welfare Officer, Accounts Officer and Chief Welfare Officers. The Court had disposed off the petition, stating that the appointment of the Petitioner to an ex-cadre post was not in any way prejudicial or detrimental to the Writ Petitioner in WP(C) 2512/1989.

5. Learned counsel for the Petitioner submitted that in spite of the Petitioner's long years of service of more than 17 years, her seniority and indeed cadre has not been properly settled. Consequently, her the right to promotion in the normal course has been effectively denied. With effect from 4.4.2001 the Petitioner was granted the benefit of Assured Career Programme (ACP). It was thereforee contended that there was nothing irregular or ex cadre as far as the Petitioner's initial appointment is concerned.

6. Counsel also relied upon the averment in the writ petition to the effect that the DDA constituted a committee for considering the promotional avenues to the cadre in the year 2002; it recommended that the Petitioner may be considered as for the pay scale Rs. 5500-9000 and the next cadre. It was also submitted that the issue of seniority vis-a-vis other Inspectors and grant of pay scales as well as designation was left to be considered by the competent authority.

7. Learned counsel for the Respondent submitted that the Petitioner's case was to be considered by the Committee which held its deliberation on 16.7.2002. She relied upon the recommendations which are as under:

The Committee proposed that Smt. Chatterjee may be considered for next higher pay scale of Rs. 5500-175-9000/- and placed in the Welfare Inspectors Cadre. However, as regards other issues like seniority vis-a-vis other Inspector, date of granting her pay scale as well as designation may be considered by the Competent Authority.

8. It was contended that in compliance of the recommendations of the Committee the Petitioner was appointed as Welfare Inspector and the pay scale of Rs. 5500-9000 by Order dated 16.9.2002 was granted to her. Counsel however submits that the Petitioner accepted appointment and joined her duties on 17.9.2002 and therefore she cannot claim to be aggrieved.

9. It was also contended that the competent authority went into the issue and was of the view that since the Petitioner were granted higher scale of Rs. 5500-9000 and designated as Welfare Inspector whereas he was Field Inspector in the pay scale of Rs. 4400-7000, there was no need to grant any further benefit.

10. Having heard counsel for the parties and considered the materials on record, I am of the view that the Respondents have not considered the Petitioner's case in its proper perspective. Undoubtedly the Petitioner's appointment was to an ex-cadre post; however her entry was in accordance with law and it was neither irregular nor in any manner illegal. The fact the the Petitioner worked in an ex cadre post however did not mean that she had to be so treated for all times. At the time of the initial appointment the Petitioner was working in the pay scale of Rs. 1400-2300. According to the Respondents that pay scale was revised to Rs. 1640-2900 w.e.f. 1.1.1986 but at the time of the Petitioner's case was considered by the Committee, which recommended her to be granted a higher pay scale, she was working in the pay scale equivalent to Rs. 1400-2300 and Rs. 4500-7000. The question of the Petitioner being given a higher pay scale and thereforee being disentitled to the benefit could never thereforee have arisen because the subsequent revision or replacement of the existing pay scale from Rs. 1400-2300

to Rs. 1640-2900 merely resulted in the Petitioner becoming entitled to the pay scale of Rs. 5500-9000, which was in fact granted.

11. It is evident that the authorities were in error in considering that the Petitioner had been given a higher pay scale of Rs. 5500-9000 since that pay scale had been uniformly extended to all employees working in the grade of Rs. 1400-2300, upon its revision to Rs. 1640-2900, with effect from 1.1.1986 by virtue of an establishment order dated 1.1.2003.

12. It is therefore evident that the Respondent misdirected itself in concluding that the Petitioner had been granted a higher pay scale whereas in reality she was granted a scale that merely replaced the existing pay scale pursuant to the decision uniformly applied by the DDA to its employees.

13. In the light of the above discussion, the Petitioner's claim to be considered for appropriate fixation in the regular cadre of the DDA has to succeed. A direction is therefore issued to the DDA to consider the Petitioner's case afresh and determine as to the post which she was appointed when she joined the duties in 1989 and also fix her inter se seniority. The said order shall also consider her case for benefits of pay fixation as was granted to similarly situated employees in the pay scale of 1400-2900 at the time when she joined the services, after its revision to Rs. 1640-2900 and subsequent revision to Rs. 5500-9000. Consequential order shall be issued within eight weeks from today and directly communicated to the Petitioner.

14. The petition is allowed to the extent indicated above. No costs.

Order dusty.