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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4722/2010**

Date of decision : 3rd September, 2015

INDIAN RED CROSS SOCIETY Petitioner
Through : Mr. Mayank Goel and Mr. Lalruatpuia
Sailo, Advocates.

versus

SHIVANI ADHIKARI Respondent
Through : Mr. V. N. Jha, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J.

1. Challenge in this writ petition is to the order dated 08.01.2010 passed by the Central Administrative Tribunal, Principal Bench more particularly the directions contained in the concluding part of the order, which reads as under :

“7. Resultantly, for the foregoing reasons, OA is allowed. Impugned orders are set aside. Respondents are directed to re-examine the claim of the applicant for grant of pay scale and seniority to applicant, as prayed for by her, by passing a reasoned and speaking order, within a period of two months from the date of receipt of a copy of this order. It goes without saying that such a reconsideration when takes place the contentions of applicant and the observations made by us above shall be borne in mind by the appropriate authority. No costs.”

2. The respondent herein was initially appointed by a communication dated 09.05.1989 as a “Field Officer” on temporary basis on consolidated emoluments of Rs.1,800/- p.m. The letter of appointment made it clear that the post would continue only so long as Project continues. The services of the respondent as per this communication were terminable on one months notice from either side without assigning any reason. However, subsequently vide office order dated 12.01.1990, her services along with other similarly situated persons were continued and they were placed in the scale of pay as indicated against each name in the order dated 12.01.1990 w.e.f. 01.01.1990. They were also given benefits as permissible to such other employees in the Society. By another office order dated 10.01.1991, the similar situated persons were placed in the regular scales of pay on probation for one year w.e.f. 01.01.1990. It was however clarified that such employees were to be placed on regular establishment of the Headquarters Secretariat.
3. According to the respondent, by this office order, the respondent became a regular employee of the Society. Another office order dated 30.11.1995 was issued to absorb the Project Staff including the respondent w.e.f. 01.12.1995 at the pay scale which was less than the pay scale as detailed in the office order dated 10.01.1991. The respondent was at that stage also liable to clear the typing test by another office order dated 12.05.1993 and six months time was granted to clear the typing test.

4. The stand of the respondent before the Tribunal was that by office order dated 10.01.1991, she stood regularized and any other subsequent office order would have no bearing on the service conditions and thus she claimed all her arrears and promotion which she would be entitled pursuant to the office order dated 10.01.1991. It is also claimed benefit of the subsequent order dated 30.11.1995 was never accepted by her and she objected to the same by not appearing in the typing test.
5. The stand of the petitioner before the Court is that the petitioner should be permitted to decide the representation of the respondent unaffected by any observation made by the learned Tribunal. However, the petitioner assures the Court that petitioner would decide the representation in all fairness keeping all the three office orders in mind and their effect on the rights of the respondent. The petitioner would also not single out the case of the respondent and in case any other similar situated person has been given any benefit, similar benefit would be extended to the respondent as well.
6. We have heard counsel for the parties. While there is clarity on the fact that initially the respondent was appointed on Adhoc basis, in case the respondent was not to be absorbed or her services not to be regularised, they would have been no purpose of office order dated 10.01.1991 but there is also no explanation as to why subsequent office order No. 46 dated 30.11.1995 was issued. We expect the petitioner to look into

the aspect while disposing the representation of the respondent as both the office orders cannot be ignored. Accordingly, the concluding para of the CAT is set aside. As agreed by the parties, representation of the respondent would now be decided on the above lines as has been observed by this Court. It is expected that petitioner would decide the representation within one month and thereafter a personal hearing will also be granted to the respondent and a speaking order would be passed.

7. In view of the above, the present writ petition along with pending applications are disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 03, 2015

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