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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on : 17.07.2015

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W.P.(C) 6704/2015

LALITA KUMARI

..... Petitioner

Through: Mr.Kunwar Arish Ali, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms.Archana Gaur, Advocate

Mr.S.S.Sejwal, Law Officer, CRPF

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

1. The petitioner was not allowed to appear in the examination conducted for appointment to the post of ASI (Ministerial) in the Central Reserved Police Force (CRPF). The requirements spelt out in the rules were that the candidate had to possess 3 years service in the cadre of Head Constable (Ministerial) as on the relevant cut-off date i.e. 31.03.2011. The petitioner did not possess such eligibility and therefore was not permitted to participate in the examination.

2. The petitioner's representation of unfair treatment was considered and the respondents, in light of a clarification issued on 03.02.2010, were of the opinion that the petitioner should be permitted the benefits sought by her with effect from the date or dates her juniors were promoted. As a matter of

fact, the said juniors had completed three years of qualifying service even though the petitioner had not. In terms of the clarification of February, 2010, a senior possessing at least half the qualifying period of service could be permitted to participate in the test. On the basis of these concessions, the petitioner was subsequently granted the benefit along with seniority. However, they were denied the arrears. The relevant order granting the benefits reads as follows:

“2. As per para-18.4.3 under Chapter-54 (Promotion) of Swamy’s Complete Manual on Establishment and Administration, in such cases pay should be fixed under FR-27 at the stage it would have reached, had he been promoted from the date the officer immediately below him was promoted but no arrears would be admissible. The seniority of the officer would be determined in the order in which his name, on review, has been placed in the select list by DPC.

3. In view of the above rules position, it is clear that in this type of deferred cases, official will be eligible for pay fixation/seniority but no arrears would be admissible. Benefit of pay fixation and seniority has already been given to your clintess vide Office Order No.E.V.2/2011-Min dated 14/05/2013. But, as per the provision of rule FR-22 she is not entitled for any back wages/arrears consequent on re-fixation of pay.”

3. We have heard counsels for the petitioner.

4. It is evident in terms of the recruitment rules/policy that for promotion the candidate should possess three years’ eligibility qualifying service. Clearly, the petitioner had not completed qualifying service. She was, however, allowed to compete in the subsequent examination and promoted on the basis of a clarification which stated that if a senior is not permitted to participate but a

junior is, he/she would be granted consequential seniority.

5. In the present case, the petitioner does not deny that the others completed three years qualifying service. The rules only allow those who complete the prescribed eligible service to compete as a matter of entitlement. The fact that she was allowed to compete later on the basis of relaxed standard, in our opinion, does not entitle her to claim arrears of salary which were denied to her.

6. For the above reasons, the petition is dismissed.

JULY 17, 2015
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S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)