

Uoi & Ors. vs Kamalini Nagrajan Dutt & Ors. on 2 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 02.04.2025

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W.P.(C) 1316/2008

UOI & ORS.

.....Petitioners

Through:

Mr.Sahil Bhalaik, Mr.Tushar
Giri, Mr.Siddharth Anil
Khanna, Mr.Ritik Arora,
Mr.Shivam Mishra, Advs. for
P-2-3.

versus

KAMALINI NAGRAJAN DUTT & ORS.Respondents

Through: Mr.Pankaj Kumar Singh,

Ms.Bimla Sharma, Advs. for
R-1 and 4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 04.05.2007 passed by the learned Central Administrative Tribunal, (CAT), Principal Bench in OA no.2597/2006, titled Smt. Kamalini Dutt & Ors. v. UOI & Ors. allowing the said OA by following its earlier Orders passed in OA no.2013/2005, titled Vinod Kumar Kapoor v. UOI & Ors. and in OA no.1690/2005, titled L.D. Mandloi v. Union of India & Ors., and with the following directions:

"6. In L.D. Mandloi's case (supra) as well as decision in Vinod Kumar Kapoor's case (supra) it is ruled that applicant should be promoted on regular basis from the date the vacancies were accrued, which is in 1998 and as the applicant had been functioning in JAG before the DPC was held and promotions were effected, he is entitled to be promoted on regularization of ad hoc official of JAG, as done in the aforesaid cases.

7. In the result, for the foregoing reasons, OA is partly allowed. Respondents are directed to treat the applicant to have been regularly appointed in JAG by promotion from the date he was functioning as such on ad hoc basis with all consequential benefits.

This shall be done within a period of two months from the date of receipt of a copy of this order. No costs."

2. The petitioners had also challenged the Judgment of the learned Tribunal in L.K.Mandloi (supra), before this Court by way of W.P.(C) No.4478/2007. The same came to be dismissed by this Court vide its Judgment dated 01.09.2024 observing as under:

" This Court has considered the submissions. There can be no quarrel with the proposition that an employee cannot claim retrospective promotion from the date he becomes eligible for promotion and the vacancy arises.

However, in the present case it is evident from the record itself that the petitioners/Union of India had promoted respondent/applicant on the basis of availability of vacancies on 22.08.2001 in the Senior Administrative Grade.

Whatever its compulsions and the position, the UPSC had an obligation to participate in such selection. There is no dispute that the vacancy had arisen sometime in the year 2001.

Respondent/applicant was eligible and promoted then on ad-hoc basis on 22.08.2001. The DPC for regular promotion was subsequently formed and the respondent/applicant was granted promotion on regular basis on 14.10.2004. Having regard to the circumstances of this case, the CAT in our opinion, did not fall into error in directing that the period intervening 22.08.2001 and 14.10.2004 ought to be treated having been spent as on regular duty. This direction - of the CAT - is in the circumstances, and obviously cannot be a general rule. This court was informed that the respondent was subsequently promoted as Director General, All India Radio and has superannuated from the service.

In view of the above directions, we are not inclined to interfere with the impugned order in the facts of this case and the petition is dismissed in above terms."

3. The learned counsel for the petitioners submits that this Court in its Judgment in L.K. Mandoli (supra), has clarified that the direction of the learned Tribunal was in the peculiar circumstances of that case, and cannot be treated as a general rule. Placing reliance on the Judgment of this Court in UOI v. K.L.Taneja, 2013 SCC Online Del 1428, he submits that service jurisprudence does not recognize retrospective promotion and even if due to administrative reasons, which are not attributable to any malice, the DPC could be held in a year, and that retrospective promotion cannot be granted.

4. On the other hand, the learned counsel for the respondents submits that the respondents are similarly situated as the respondent in L.K. Mandoli (supra); the only distinction is that the respondents were appointed on an ad hoc basis in the year 1999 to the post of Junior Administrative Grade and were granted regular promotion on 08.12.2004, that is, close to the date of 14.10.2004 when the respondents in L.K. Mandoli (supra) were granted regular promotion to the post of Senior Administrative Grade to which they were initially appointed on an ad hoc basis in the year 2001.

5. We have considered the submissions made by the learned counsels for the parties.
6. This Court in L.K. Mandoli (supra) has, while recognizing the general rule that retrospective seniority is not to be granted, at the same time, upheld the direction of the learned Tribunal by holding that in the peculiar facts of the present case, where UPSC did not participate in the selection process because of which the petitioner made ad hoc appointments, the respondents would be entitled to claim retrospective seniority from the date of their appointment.
7. We do not see any reason to differ from the above finding of the Co-ordinate Bench of this Court.
8. Accordingly, we find no merit in the present petition. The same is dismissed.
9. We again clarify that this Judgment is being passed in the peculiar facts of this case.
10. The consequential orders be issued by the petitioners and relief, if found due, released to the respondents within eight weeks from today.

NAVIN CHAWLA, J RENU BHATNAGAR, J APRIL 2, 2025 RN/IK Click here to check corrigendum, if any