

**SUPREME COURT OF INDIA**

Govt. of NCT of Delhi

Vs.

Dr. Prem Lata

C.A.No.6924 of 2008

(K.G. Balakrishnan CJI. and P. Sathasivam J.)

01.12.2008

**ORDER**

1. Leave granted.

2. This is an appeal against the judgment of the learned Single Judge of the High Court of Delhi at New Delhi. The respondent was a Member (Female) of the District Consumer forum, Delhi. On 06.04.2006, applications have been invited from suitable candidates for appointment on whole time basis for the post of Member (Female) in the District Consumer Forum, Delhi. The respondent herein had submitted her application for consideration as a Member (Female) as she was entitled to be considered for reappointment under proviso of sub-section 2 of Section 10 of the *Consumer Protection Act, 1986* (hereinafter referred to as the "Act"). The last date for submitting the application was 21.04.2006. It appears that the respondent herein got submitted her application only on 1st May, 2006, as she was out of India for sometime. The application of the respondent was recommended by the President who is also the Chairman of the Selection Committee and, therefore, she was called for interview. When the panel of the selected candidates was sent to the Lt. Governor it was noticed that the application submitted by the respondent was delayed as it was sent on 1st May, 2006 i.e. beyond the stipulated date. The Lt. Governor rejected the candidature of the respondent on the ground that the application was sent late. Challenging that, the respondent has filed a Writ Petition (C) No. 61 of 2007 before the High Court and the same was considered by the High Court. By the impugned judgment, it was held that the case of the respondent was not that of appointment as envisaged under sub-section 1-A of Section 10 of the Act, but of a reappointment as contemplated under proviso of sub-section 2 of Section 10 of the Act and as the Delhi Administration nowhere denied or disputed the eligibility of the respondent for reappointment on the said post. Regarding delay in submitting her application, the High Court by pointing out the action of the President of the State Commission who was also Chairman of the Selection Committee recommended her case and she was called for interview and she being a sitting Member eligible for consideration for reappointment, allowed her writ petition and directed to declare result of the respondent. By saying so, the High Court set aside the decision of the Administration rejecting her claim on the ground of late submission of the application.

3. Heard Shri Gopal Subramaniam, learned Additional Solicitor General and also the respondent, who appeared in person.

4. Learned Additional Solicitor General by drawing our attention to first proviso to Section 10(2) of the Act submitted that even though the respondent is eligible for reappointment for another term, she has to fulfill the qualifications and other conditions for appointment mentioned in clause (b) of sub-section 1. He also pointed out that even for reappointment the procedure as applicable to fresh appointment ought to be followed. On going through the relevant provisions particularly, first proviso to Section 10(2), we are of the view that the contention of the learned Additional Solicitor General is well founded. The reasoning of the High Court that the respondent being a sitting Member of the District Consumer Forum and being considered and the selection is for reappointment, there is no need to comply with qualification and all other conditions for fresh appointment cannot be sustained. However, it is pointed out that though there were series of vacancies which arose during the pendency of the proceeding before this Court, it is stated by the respondent that her application was not considered only on the ground that the matter was pending before this Court. It is also submitted by the learned Additional Solicitor General that in the select panel, the respondent's name appeared on a fairly higher position and she could have been appointed but for the defect/delay in submitting her application. Having regard to the peculiar facts of this case and the respondent being otherwise qualified and also of the fact that the said post is vacant as on date, the Government of NCT, Delhi is directed to consider the application of the respondent as within time and pass appropriate orders appointing her afresh as a Member (Female) in the District Consumer Forum, Delhi as early as possible.

5. The appeal is disposed of on the above terms. No costs.