

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2237/2002

New Delhi this the 21st day of April, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Smt. Bimla Maithani
W/o Late Ved Prakash Maithani
R/o H.No. A-28, Sindhora Kalan
Shakti Nagar, Delhi - 110 007.

...Applicant

(By Advocate Ms. Harvinder Oberoi)

-Versus-

1. Govt. of NCT of Delhi
through its Chief Secretary
Secretariat, Indira Gandhi Indoor Stadium
New Delhi - 110 002.
2. Director
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat, Sham Nath Marg
Delhi - 110 054.
3. The Deputy Director of Education
Distt. West, New Moti Nagar
New Delhi - 110 015.
4. Mr. Praveen Bhalla
Principal
Sarvodaya Vidyalaya
Kedar Building, Sabzimandi
Delhi - 110 007.

Respondents

(By Advocate Mohit Madan, proxy for
Mrs. Avnish Ahlawat)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 12.8.2002 whereby while working as Domestic Senior Lab Helper (part time) his services have been terminated. He has sought quashment of this order and re-instatement with all consequential benefits.

2. Applicant, who was registered with the Employment Exchange was appointed as Domestic Senior Lab

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Helper on a monthly consolidated amount of Rs.489/- w.e.f. 18.9.90. Her working hours were from 7.00 a.m. to 12.30 p.m. with a stipulation in the order that the services are likely to be terminated at any time without any notice. Aforesaid appointment was on purely temporary basis after accord of approval by the Director of Education vide letter dated 3.9.90. Applicant as per this letter was paid from Boys Fund, i.e., a non-governmental fund. Applicant made a representation to respondents on 28.4.94, requesting the Principal to increase her pay to Rs.900/- as being paid to the similarly circumstance. Aforesaid representation was never responded to. Her services have been terminated by the impugned order, giving rise to the present OA.

3. Learned counsel for applicant Ms. Harvinder Oberoi assailed the impugned order on the ground that applicant was appointed after being sponsored through Employment Exchange and her appointment was approved by the Director. She has been subjected to interview and other recruitment process. Accordingly her services cannot be dispensed with in violation of principles of natural justice after a long period of 11 years without following the minimum of the principles of natural justice. Ms Oberoi heavily relied upon the decision of the Apex Court in Canara Bank and Ors. v. Shri Debasis Das and Ors., 2003 (3) SC 183 and contended that natural justice is another name for commonsense justice, rules of natural justice are not codified canon. But they are principles ingrained into the conscience of man. It is in this regard a distinction has been made between natural justice and legal justice and in this conspectus it is stated that applicant was to be safeguarded by the minimum protection

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(3)

of the rights from the arbitrary procedure adopted by quasi judicial and administrative authorities. Further, by referring to a memorandum dated 31.12.91 it is contended that Delhi Administration, Directorate of Education vide aforesaid memo decided to regularise part time employees against Group 'D' posts who have been appointed against sanctioned posts and are sponsored by Employment Exchange as well as interviewed by Staff Selection Board and as applicant fulfils requirements of recruitment rules either the services of applicant could have been dispensed with at that time itself as she has been continued, a legitimate expectation has surfaced and the Department is precluded from terminating the services on the doctrine of promissory estoppel. It is in this background contended that had applicant been apprised of her irregular appointment, she would have looked for some other job, which is not possible in view of her being over-aged. It is also one of grievances of applicant that on her representation in 1994 no action has been taken.

4. On the other hand, respondents' counsel contended that representation of applicant has been considered but as she had been appointed and paid from Boys Fund, which is other than the contingent fund, she is not holder of a civil post and as such this court has no jurisdiction to deal with her grievance.

5. However, it is stated that applicant does not fulfil the criteria laid down in the OM of 1991, as she was not appointed against any sanctioned post and the concerned Deputy Education Officer on his own appointed her. Moreover, she is not sponsored through Employment Exchange

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and she has not been appointed by the Headquarter by following the required procedure, her services were temporary and were dispensed with in terms of the order of appointment.

6. It is further stated that as per OM dated 6.1.2000 those who have been paid from Boys Fund have not been appointed against any sanctioned post and as such only those part time workers who have been paid through contingent fund are regularised. The learned counsel relies upon the decision of the coordinate Bench in OA-1165/2001, Smt. Uma Sharma v. Govt. of NCT of Delhi & Anr. decided on 25.9.2001, decision of the Division Bench in OA No.2406/94, Smt. Dharam Wati v. The Director of Education and Others, decided on 19.3.96, decision of the coordinate Bench in OA No.1836/99 Smt. Usha Devi v. Director of Education & Anr. decided on 14.7.2000 and decision in OA No.1801/2000 Mrs. Maya Devi v. National Capital Territory of Delhi and Others, decided on 31.08.2001, where similar claims have been rejected for want of jurisdiction.

7. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view as applicant has been appointed and paid from Boys Fund, which is not a contingent fund, there is no relation of Master and Servant between the respondents and applicant and being not a civil servant within the meaning of Section 32^b of the Administrative Tribunals Act, 1985 and not amenable to provisions of Section 14 of the Administrative Tribunals Act, 1985 this Court has no jurisdiction to entertain the grievance raised by applicant. This view of mine is

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fortified by the decisions of this Court in Smt. Dharam Wati, Smt. Usha Devi, Smt. Uma Sharma and Maya Devi (supra). As Boys Fund is not a contingent Fund and a non-governmental fund this court has no jurisdiction to ^uaccord regularisation.

8. High Court of Delhi in Writ Petition (Civil) No.538/2002 - Smt. Anita Mishra v. Govt. of N.C.T. of Delhi & Others by an order dated 17.2.2003 while dealing with the PTA Fund held the same to be a non-governmental fund, which does not confer any right upon petitioners therein to claim regularisation. Case of applicant herein is in all fours covered by the aforesaid decision.

9. In this view of the matter for want of jurisdiction OA is dismissed, with liberty to assail ^uthe grievance in accordance with law in the appropriate forum. No costs.

S. Raju
(Shanker Raju)
Member (J)

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