

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 2567/2002

This the <sup>24</sup>th day of March, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Birmati  
W/o Sh. Umed Singh  
R/o O-73, Krishan Vihar,  
Delhi-110041.

(By Advocate: Sh. Pradeep Dahiya)

Versus

1. Govt. of NCT of Delhi,  
Through the Chief Secretary,  
5, Sham Nath Marg,  
New Delhi.
2. Director  
Directorate of Technical Education,  
Pitampura,  
New Delhi-34.
3. Principal,  
Kastruba Polytechnic for Women,  
Pitampura,  
New Delhi-34.

(By Advocate: Mrs. Sumedha Sharma)

ORDER

Applicant is aggrieved of an order Annexure A-1 vide which her engagement as Attendant has been terminated w.e.f. 5.8.2002. Applicant claims that her services have been terminated as per operational plan 2002-2003, approved by TTTI, Chandigarh, MHRD, Govt. of India and community Polytechnic Scheme Guidelines.

2. Applicant further alleges that on 5.8.98 she applied for the post of attendant for the Extension Centers in the Community Polytechnic Scheme under the direct supervision of Respondent No.3. Applicant was interviewed for the post. A panel was drawn by a Board to select the persons for the said post. On 29.10.98, in pursuance of the said selection,

kr

applicant was offered the post of attendant. Consequent to her selection she joined the duties but in May 1999, she was removed from service without assigning any reason. Applicant filed an OA. The said OA was allowed with the direction to the respondents in case any vacancy of Attendant exists at an existing Centre or if a new Centre is to be opened requiring the services of an attendant, then the respondents shall engage the applicant in preference to her juniors and freshers. Thereafter a CP was filed. Though CP was dismissed but it was observed that respondents shall consider the applicant in immediate next vacancy of an Attendant

3. Consequent to that on 23.1.2001, applicant received another offer of appointment and joined as an attendant under Community Polytechnic Scheme vide Annexure A-4. Thereafter applicant has been working to the satisfaction of her superiors but since the applicant was not getting salary as her counterparts were getting under the GNCT Scheme, so she filed an OA-609/2002. The OA was allowed with the direction to the respondents to consider her representation. Her representation was disposed of vide Annexure A-6 wherein it was clarified that the applicant was not an employee of Govt. of NCT of Delhi and she had been appointed under Community Polytechnic Scheme on purely temporary basis under the guidelines issued by Ministry of Human Resources Development (MHRD, for short).

4. It is further stated that the applicant has fallen sick and could not resume duty for many days. But on 6.9.2002 when she was fit to resume duty and she reported for duty, she shocked to know that her services have been terminated.

fu

Assailing this order of termination, applicant submits that the termination order is unfair, unjust and against the rules and persons who are junior to her in appointment have been retained whereas her services have been terminated.

5. The OA is being contested. Respondents have denied all these allegations. Respondents had contended that the applicant had been appointed under the Community Polytechnic Scheme purely on project base and there is no illegality involved in termination of services as now there is no requirement of attendant as per operation plan 2002-2003 approved by TTTI, Chandigarh, MHRD, Govt. of India and Community Polytechnic Scheme guidelines. It is further submitted that the services of the last attendant who was engaged much before the applicant under the direct control of Resp. No.3 had already been terminated and though the said Sh. Shamsher Singh had approached the Tribunal as well as the High Court and in both these orders it was confirmed. However, it was observed that whenever any fresh appointments on temporary/ad hoc basis against the post of attendant cum chowkidar, the petitioner shall be given first preference subject to his seniority.

6. Counsel for respondents further submitted that the scheme is under the Ministry of HRD and not under the Govt. of Delhi and in the absence of Ministry of HRD the OA is not maintainable. Besides that applicant was under the direct control of Resp. No.3 and under Resp. No.3 there is no person engaged as attendant cum chowkidar who is junior to the applicant. Now since Resp. No.3 donot require any attendant cum chowkidar under the Community Polytechnic Scheme, so the services of the applicant have been rightly disengaged.

fr

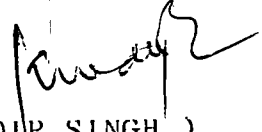
14

7. I have heard the learned counsel for the parties and gone through the record. The non-joinder of MHRD by the applicant appears to be vital because the impugned order itself shows that the services have been terminated as per operational plan 2002-2003 approved by TTTI Chandigarh, MHRD. Besides that when earlier OA of the applicant was disposed of vide Annexure A-5, respondents were directed to consider his representation vide Annexure A-6. The representation was decided. In that also it was made clear that applicant is not an employee of Govt. of NCT Delhi and she was engaged purely on daily wages under the Community Polytechnic Scheme of MHRD. Thus, the OA against the Govt. of NCT should not have been filed, rather the same should be filed against MHRD.

8. Be that it may, since the applicant was appointed under the direct control of Resp. No.3 still we can consider the merits of the case as Resp. No.3 is a party to the present OA. Resp. No.3 has explained that there is no requirement of attendant cum chowkidar in the office of Resp. No.3 and even if attendant who was senior to the applicant in seniority list, his services have also been disengaged. The said attendant has filed OA before this court as well as a petition before the Hon'ble High Court. This court had also directed that in case the work of the type the applicant is performing is available under the scheme then the applicant shall not be disengaged. When the petitioner in that case approached the Hon'ble High Court, again the writ petition was disposed of with the observation that in case the respondents are making fresh appointment on temporary/ad hoc basis against the post of attendant cum chowkidar the petitioner shall be given first preference subject to his seniority.

th

9. Now since Resp. No.3 has categorically stated that the work of attendant cum chowkidar is not available under the office of Resp. No.3 moreover under the Community Polytechnic Scheme of MHRD approved for the year 2002-2003, the services of the applicant are not required. So Resp. No.3 had a right to disengage the service of the applicant. Accordingly, I find that there is no fault in the order passed by Resp. No.3 for disengaging the services of the applicant. This OA has to be disposed of on the same lines that in case the respondents are making fresh appointments on temporary/ad hoc basis against the post of attendant cum chowkidar then applicant shall also be considered and shall be given preference subject to her seniority in accordance with law. OA stands disposed of.

  
( KULDIP SINGH )  
Member (J.)

'sd'