

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1165 of 2001

New Delhi, this the 25th day of September, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Smt. Uma Sharma
W/o Shri Vipin Swaroop Sharam,
R/o H.No. 7781/9 K.P. Quarters,
Shakti Nagar,
Delhi-110 007.

-APPLICANTS

(By Advocate: None)

Versus

1. Government of NCT of Delhi
Through Director,
Directorate of Education,
Old Secretariat,
Delhi.
2. The Principal,
Government Girls Sr. Secondary School
No.1,
Shakti Nagar,
Delhi.

-RESPONDENTS

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

O R D E R(ORAL)

By Hon'ble Mr.Kuldip Singh.Member(Judl)

A perusal of the file shows that no one had appeared for the applicant even on the last two hearings. Today also no one is present on behalf of the applicant, hence I proceed to decide the case on merits on the basis of the pleadings as per CAT (Procedure) Rules, 1985.

2. The applicant has filed this OA under Section 19 of the Administrative Tribunal's Act, 1985 praying for the following reliefs:-

(i) Declare that the appointment of the petitioner as part time worker is wrong and illegal and unjustified.

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(ii) Issue an appropriate order/direction to the respondents to regularise the services of the petitioner from the date of initial appointment with full back wages and continuity of service along with all legal benefits from the date of appointment and further declare that arrears of wages and legal benefits as applicable from the date of appointment be paid to the petitioner, in the interest of justice.

3. Facts, as alleged by the applicant are that the applicant was registered with the Employment Exchange at Director of Employment, University Employment and she was appointed as Domestic Science Part-Time Helper by the Directorate of Education and respondent No.2 had confirmed the appointment of applicant as such. Her salary is also stated to be revised by the respondents as Rs.560/- per month for the part time workers, so the applicant says that she has become eligible for regularisation and her services had been illegally terminated and her appointment as Part Time was itself wrong.

4. The respondents, who are contesting the OA, had filed a reply and in the reply it is submitted that there is no sanctioned post of Domestic Science Part Time Helper under the Directorate of Education. It is the Principal, who on her own had appointed the petitioner as Part Time Domestic Helper on a consolidated salary of Rs.480/- per month. The salary was also not paid by the Government of NCT, rather the expenditure on the salary of the applicant was met out of pupils' fund without any

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approval of the Directorate of Education. Thus it is submitted that the applicant cannot claim for regularisation and since the applicant does not hold any civil post under the Government of NCT of Delhi so this Tribunal also has no jurisdiction to entertain the OA.

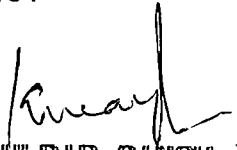
5. Shri Mohit Madan, learned proxy counsel appearing for the respondents has also referred to a judgment given by a Co-ordinate Bench in OA No. 722/98 wherein also the applicant was working as a Part Time Teacher and was paid salary out of the pupils' fund. i.e., the funds collected from the parents of the children and the Tribunal had held that they had no jurisdiction in the matter and for arriving at this conclusion, the Tribunal has also relied upon an earlier OA 2408/94 - Smt. Dharamwati VS. Director, Education and Others, who was also a Domestic Science Helper appointed in similar circumstances and in similar manner.

6. The contention with regard to the manner in which the applicant had been appointed, as raised by the respondents in their counter-affidavit has not been controverted by filing any rejoinder, so I have no reason to believe the submissions made in the counter-affidavit that the applicant had been appointed as a Domestic Science Part Time Helper by the Principal of his own and the expenditure on her salary was met by pupils' fund and the applicant was not paid salary by the Government of NCT. Thus the applicant cannot claim to have ever held any post under the Government of NCT, so, that berefts the Tribunal to have jurisdiction to entertain this OA. Since the matter is also fully covered as per the

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judgment given by the Tribunal in an earlier OA 722/98 (Supra), so I also do not find any reason to deviate from that judgment and hold that the OA is not maintainable and the same has to be dismissed.

7. In view of the above, nothing survives in the OA which is accordingly dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh