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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO.2079/2001

New Delhi this the 8th day of May, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Smt.Rajbala W/O Sh.Randhir Singh
R/O Vill- Katewara,
New Delhi.

..Applicant

(By Advocate Shri U. Srivastava)

VERSUS

Govt.of NCT of Delhi, through

1. The Secretary/ Director,
Directorate of Education,
Old Secretariate, Delhi.
2. Zonal Education Officer -III,
District North, Lucknow Road,
Timarpur, Delhi.
3. Dy.Director of Education,
District North West,
Harikat Nagar, Delhi.

..Respondents

(By Advocate Shri George Paracken)

O R D E R (oral)

(Hon'ble Shri Govindan S.Tampi, Member (A)

Regularisation of the applicant's service
granting relaxation in terms of the Order No. DE-1
(16)(3)EI/91/37071-38070 is the relief prayed for in
this OA.

2. Heard S/Shri U.Srivastava and George
Paracken learned counsel for the applicant and the
respondents respectively.

3. The applicant whose services were engaged
as Domestic Science Helper w.e.f. 12.11.84 was
regularised as Helper (Part-time) from that date @
Rs.150/-P.M.out of Boys Funds, on 21.7.87. It was to
be revised on 1.9.87, keeping in mind the revision in
the remuneration from Rs.290/- to Rs.489/- and

debitable to Head of Accounts under which the post exists. Proposal for the same was sent on 7.8.88, but the increase was only upto Rs.300/- PM. In the seniority list of part time employees as on 30.11.1987 being paid out on contingency fund/Boys Fund/PTA fund the applicant was at S1.No.27. Her case was considered for regularisation for which she was asked to appear for the interview with necessary certificate on 4.9.92 and on 23.3.94 her case was rejected holding that she was not under prescribed age limit at the time of her appointment on part time basis and that she was not working against a Govt.approved vacancy and drawing salary therefrom. This was despite the power to grant relaxation of the conditions, for those engaged prior to 7.5.85, in terms of respondents order No.DE/1(16)(3)/EI/91 37071-38070 dated 31.12.1991. Besides her services had been regularised on 21.8.87 w.e.f. 12.11.84, as confirmed by the respondents letter dated 9.1.1998. Still as she was restrained from performing her duties thereafter, she filed OA 1031/98, which was disposed of on 22.12.98, directing the respondents to take a decision on the basis of their letter dated 9.1.98. Following this on 4.5.99, she was appointed as part-time water woman against a vacant and sanctioned post in one of the Schools in Mangolpuri, notified on 18.5.99 to another School in the same area. Still as her regularisation was still pending the applicant filed OA No.1395/99 but withdrew it with permission to approach again, if any grievance survived and the same was permitted on 21.3.2001. Hence this OA on the following grounds :-

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- (a) applicant's case has been rejected without considering the relaxation as permitted by order dated 31.12.91 ;
- (b) applicant has admittedly been regularised w.e.f. 12-11-84, as shown in the Communication of 21.7.87 ; and
- (c) the attempt to regularise her in 93, was only a force and the move was illegally rejected.

The above grounds were forcefully reiterated by Shri U.Srivastava, learned counsel for the applicant.

4. The applicants claims are forcefully contested by the submissions of the respondents, reiterated by their learned counsel Shri George Paracken. The applicant was engaged as part time Domestic Science Helper on 12.11.84, and was being paid @ Rs.150/- from 'Pupils Fund'. She was overaged and she had not come through Employment Exchange. Her remuneration was raised to Rs.300/-. Her earlier OA No.1031/98 was disposed of by the Tribunal by directing the respondents to decide the issue in pursuance of their letter dated 9.1.98. Subsequent OA No.1395/99, filed by the applicant was withdrawn. Tribunal had ordered on 12.5.99, in OAs 1574,76 & 77 that they had no jurisdiction in respect of employees being paid from Regimental Fund, Boys Fund etc.; following the decision of the Hon'ble Supreme Court in Chhotte Lal's case (JT 1998 (8)SC 497). Applicant has been appointed as part time water woman on 4.5.99, in terms of Tribunal's directions on 22.12.98. Earlier by order dated 23.3.94, she had been informed that her regularisation in service was not possible as she was not posted against any approved vacancy. She was

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drawing remuneration from boys fund, her earlier regularisation was only against the boys fund post and that she did not fulfill the education criterion. As she was not eligible for the relaxation provided by Govt.'s order dated 31.12.91 as she was not eligible for being considered for a Group 'D' post. As she was not originally posted against any approved post but was only adjusted in a post paid from Boys fund, she was not entitled for any regularisation, according to Shri Paracken.

5. I have considered the matter. The point for determination in this case falls within a short compass. The applicant seeks that having been on employment since 12.11.84, she is entitled for regularisation, even granting relaxation as provided by instructions of 31.12.91. Respondents on the other hand state that as she was posted against a Boys fund post relaxation is not permissible. It is not disputed that the applicant was originally engaged as part time Domestic Science Helper on 18.12.84 and regularised in that post from that date by the order dated 21.7.87. She was also placed on the seniority list of 30.11.87. Subsequently she was screened but rejected for regularisation stating that she was not sponsored through Employment Exchange and was overaged at the time of her original engagement. These objections have come too late in the day, especially in view of the relaxation permitted by Respondents' own letter No. DE 1(16)(3)E-1/91/37071-38070 dated 31.12.1991. The applicant's case deserved to be considered and the failure of the respondents was inexcusable. However, after the decisions of the

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Tribunal in OA 1031/98, directing them to take action in view of their own letter of 9.1.98, the respondents have extended partial justice by engaging her as waterwoman on 4.5.99. Regularisation is the next logical step and the respondents have to grant it, extending to her the relaxation permitted by their own order dated 31.12.1991. The applicant would be entitled for regularisation from the day her case was rejected without granting her the relaxations. The respondents version that as she was only a part time water woman, drawing remuneration from Pupils Fund, would not go against her, as she is protected by the decision of this Tribunal in Vidhya's case (OA No. 2722/99) decided on 30-6-2000.

6. In the result, the OA succeeds and is accordingly allowed. The respondents are directed to grant regularisation to her, in terms of the relaxation permitted in respondents letter dated 31.12.91 from 23.3.94 when her case was improperly rejected. She would be entitled only notional regularisation, with actual benefit in the Group 'D' post against which she has been appointed only from 16.8.2001, when this OA has been filed.

No costs.

Govindan S.Tampi)
Member (A)