

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.538/2001

New Delhi, this the 12th day of September, 2001

Shakuntla
w/o Shri Parma Nand
r/o F-7/47, Gali No.41
Sultanpuri
New Delhi - 110 047.

... Applicant

(By Advocate: Shri H.S.Dahiya)

Vs.

1. Lieutenant Governor
Government of National
Capital Territory of Delhi
Raj Niwas
Delhi.
2. Secretary
Ministry of Social Welfare
Government of National Capital
Territory of Delhi
Old Secretariate
Delhi.
3. Head of Office
Sanskar Ashram for Denotified
Tribes and S.C.Girls
Dilshad Garden
Sahadra
Delhi.
4. District Officer
Asha Kiran, Vikas Girah
Avantika, Sector-1
Block-B, Rohini,
New Delhi.

... Respondents

(By Advocate: Mrs. Sumedha Sharma)

O R D E R (Oral)

By Shanker Raju, Member (J):

Heard both the parties.

The grievance of the applicant is that she was employed as Sweepress in September, 1989 and had continued as Part-time till she was discharged on 16.6.1997 and thereafter she was re-employed as Sweepress in March, 2000. The applicant is still

11

working. The learned counsel for the applicant states that as she has already rendered 10 years service she may be regularised as Group 'D' employee though she has not amenable to the DoPT's Scheme as she is not a casual labour and also she is not a regular employee. In view of the decision of the Apex Court in K.S.Mahalinge Gowda Vs. Secretary, Department of Vocational, Educational of Karnataka & Others, 1995(1) SLR 39, wherein the Apex Court in para 12 has observed that as the State Government therein was clearly agreed to absorb on regular basis ~~of~~^h a Part-time Lecturer who had worked for more than 10 years, the SLP disposed of accordingly. The learned counsel for the applicant states that before the applicant's services dispensed with, no opportunity^h ~~not~~^h etc. has been served upon her.

2. Strongly rebutting the contentions of the applicant, it is stated by the learned counsel for the respondents that the applicant was employed as Part-time Sweepress and as the work has been given to a private contractor 23 posts of Group 'D' sweepers were declared surplus and being permanent/regular their services were ordered to be utilised against the post of Peon. The applicant on making representations on a proposal ^hcame from the Deputy Suptd. on 16.6.1997 but no vacant post of Sweeper is available in the Department she could not be regularised for want of post. It is also stated that the conduct of the applicant was also not upto the mark though she had been paid salary upto 25.7.1999, but her performance is poor as she was regular late comer and used to unauthorisedly absence from duty. In this

view of the matter, it is stated that as there is no Scheme or provision for regularising the services of the part time employees, the regularisation of the applicant cannot be made as a matter of right.

3. I have carefully considered the rival contentions of the parties and perused the material on record. Admittedly, the applicant has working as Part-time employee and for non-availability of post the applicant could not be considered for regularisation and further transfer the work of Sweeper to a private Contractor by the respondents, the applicant services have been dispensed with but later on she has been re-employed as Part-time Sweepress in March, 2000 and since then she has been continued. It is also settled position of law that no Scheme is made out by the DoPT pertaining to the regularisation of the services of Part-time employees. The DoPT's Scheme of 10.9.1993 has no application on Part-time workers and it is applied to the casual workers and that to after according temporary status their services will be regularised on availability of a Group 'D' post.

4. In this view of the matter the decision as cited by the learned counsel for the applicant is distinguishable as therein the respondents themselves made a statement to regularise the services of the petitioner therein having worked for more than 10 years. As the same proposal has not^{been} forthcoming from the respondents reply in the present case and the fact that in view of the decision of the Apex Court in Delhi Development Horticulture Employees Union Vs.

Delhi Administration, 1992(1) SLR 689 and also Union of India Vs. Bishamber Dutt, SCSLJ 1997(1) SC 21, no direction can be issued to the respondents to regularise the services of the applicant. However, having hard press case that the applicant has worked for more than 10 years as Part-time employee^{not} being accorded^{ed} the regular status and other emoluments, it is observed that in the event any Scheme is framed by the DoPT for regularisation of Part-time worker the applicant's case should be considered for the same including the break in service. With these observations, the OA is accordingly disposed of. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/