

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2145/95

New Delhi this the <sup>11</sup> ~~6~~ day of ~~January~~ <sup>Feb</sup> 1996

Hon'ble Shri B.C.Saksena, Vice-Chairman(J)  
Hon'ble Shri R.K.Ahooja, Member (A)

Promila Devi, Widow  
of late Shri Janeshwar Mistri,  
resident of RZ-256/292, Gali No.4,  
Geetanjali Park, West Sagarpur,  
New Delhi.

(By Advocate: Shri U.Srivastava) .....Applicant

Versus

1. Union of India through the  
Secretary, Ministry of Labours,  
Govt. of India, Rafi Marg  
New Delhi.
2. The Protector of Emigrants,  
Govt. of India Jaisalmer House,  
Mansingh Road,  
New Delhi.

.....Respondents

ORDER

delivered by Shri B.C.Saksena, VC(J)

This OA has come up for orders as regards admission.

2. We have heard the 1<sup>st</sup> Counsel for the applicant. The applicant has prayed for a direction <sup>to be</sup> issued to the respondents to consider her <sup>for</sup> appointment as a Casual Labour (Peon) in their department against fresh & outsiders candidates. The brief facts <sup>as</sup> <sup>are</sup> indicated that the applicant had worked as Water Woman w.e.f. 15.5.89 in the office of Protector of Emigrants, Govt. of India, New Delhi. Her services were terminated w.e.f. 25-7-90. The applicant filed OA before this Tribunal being OA No. 2859/91 vide order passed on 21-4-95. A copy of the judgement has been annexed as Annexure A/2. The said decision was rendered after finally hearing the OA. On analysis of the pleadings of parties the Division Bench was of the view <sup>that no case</sup> to interfere with the

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verbal termination of the applicant's services. It was also held that the termination was not arbitrary. The applicant has filed the 2nd OA.

3. Ld Counsel for the applicant has urged that the present OA is not for the same relief, as claimed in the earlier OA 2859/91. From the order passed in the said OA, we find that besides seeking a relief for quashing of the termination order, the applicant also sought a direction to be issued to the respondents for regularisation of their services. The Division Bench held that the "Tribunal is not competent to issue any direction to engage a person employed on Muster Roll or employed on daily wage basis or appointed as a stop-gap arrangement in leave vacancies, to be re-engaged when there is categorical averment to the fact that respondents have no work." The applicant has filed an additional affidavit indicating that some fresh candidates besides those who previously worked in the department have been appointed. Neither the date of the appointment is indicated in respect of those who are re-engaged nor the number of ~~vacancies~~ <sup>their previous working days</sup> ~~vacancies~~ are shown.

4. Ld Counsel for the applicant sought to rely on an order vide Annexure A-4 passed by a Division Bench of the Delhi High Court. In the said order it was provided as follows:-

"In case the respondents have sent the requisition to the employment exchange for employment of persons like the petitioners, and the petitioners are qualified to fill that job, then the respondents should entertain their applications and consider them for employment also."

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5. Id Counsel for the applicant before us submitted that this OA may be disposed of in terms of the above order passed by the High Court. The applicant further alleged that she had made a representation to the respondents on 7-5-95 requesting for her re-engagement when others were being re-engaged or freshly appointed to work as casual labour under Respondent No-2. The applicant alleges that there has been no response to the said representation. In the circumstance we dispose of the OA with the hope that the respondents, if such a representation has been made, will consider the same and pass necessary orders. We have deliberately refrained ourselves from giving any direction for re-engagement of the applicant. That would be <sup>for</sup> the consideration of the respondent No-2 on the basis of past record of the applicant, number of days she has worked and if casual labours are being engaged by them ~~if they are having lesser number of working days previously~~ <sup>the applicant's candidature may also be</sup> considered.

6. With the above observations, the OA is disposed of accordingly.

~~R.K.Ahooja~~  
(R.K.AHOON)  
Member (A)

~~B.C.Sakse~~  
(B.C.SAKSENA)  
Vice-Chairman (J)

cc.