

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 672/95

New Delhi this the 26th day of February 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Smt. Tejinder Kaur Chawla
Age 34 years
W/o Shri Jaspal Singh Chawla
Ex-Drawing Teacher
Govt. Boys' Senior Secondary School
DDA Flats, Kalkaji Phase-II
NEW DELHI-110 019

R/o E-6 Greater Kailash Enclave Pt. I
New Delhi-48

....Applicant

(By Advocate: Shri K.N.R. Pillai)

Versus

1. Govt. of National Capital Territory of Delhi
Through the Director of Education, Old Secretariate
Delhi- 110 006

2. Director of College Education
Department of Education
Govt. of Rajasthan
Jaipur.

....Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER (Oral)

Hon'ble Shri A.V. Haridasan, Vice-Chairman (J)

A notification ^{was} issued by the first respondents
inviting applications for the post of Teachers in the
year 1991. The applicant applied for appointment to the
post of Drawing Teacher. According to the applicant she
had all the requisite qualifications to apply for the
post and she was after a due process of selection including
written test and practical tests selected and appointed
as a Drawing Teacher in the Government Boys Senior Secondary
School, Kalkaji where she joined on 21-4-93 and she was
on probation for a period of one year, and she completed


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this on 20-4-94. In January 1994 a number of Drawing Teachers were similarly recruited and appointed. They were served with similar termination notices by the Directorate of Education who after getting explanation from them allowed them to continue in service. However the applicant was served with a notice dated 12-7-94 terminating her services under the provisions of Rule-5(1) of the Central Civil Services (Temporary Service) Rules 1965 w.e.f. the date of expiry of the period of one month from the date of issue thereof. Aggrieved by that the applicant had filed OA No. 1586/94 challenging the validity of the said order. Noticing that the applicant did not exhaust departmental remedies before resorting to the litigation, the Division Bench disposed of the application directing the respondents to dispose of the representation made by the applicant. Pursuant to the above judgement the applicant was given an order Annexure A-5 rejecting her representation on the ground that she did not possess the prescribed qualification for appointment as Drawing Teacher. It is aggrieved by this that the applicant has filed this application praying that the impugned order dated 12-7-94 (Annexure A-1) terminating the services of the applicant and the order dated 25-12-94 (Annexure A-5) rejecting her representation may be set aside and the respondents be directed to treat the applicant to have continue in service with all consequential benefits.

2. The respondents in their reply seek to justify the impugned actions on the ground that the applicant though appointed as a Drawing Teacher was found not to possess the requisite qualification of two year's Diploma in Arts and under these circumstances the only way/^{was} to terminate the services of the applicant.

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3. The facts which are not disputed in this case are that the applicant was selected for appointment as a Drawing Teacher after a due process of selection including written test and practical test and that she had before appointment produced all the certificates in original for verification by the respondents and that it was after such verification that the applicant was appointed as a Drawing Teacher on a temporary post. When the impugned order at Annexure A-1 was issued interms of Rule-5 of the Central Civil Services (Temporary Service) Rule 1965, the applicant had filed an application ^{which} ~~when~~ was disposed of with a direction to the respondents to consider representation submitted by her. Pursuant to this direction the appellate authority has issued an order at Annexure A-5 by which the applicant has been ~~affirmed~~ ^{upheld} that an appeal has been rejected as she did not possess the prescribed qualification for Drawing Teacher. Learned Counsel for the applicant argued that the applicant possesses all the required qualifications, that the respondents appointed her as drawing teacher after verifying the original certificates which she had produced and that the respondents cannot validly ^{ly} terminate her services unilaterally taking a decision that she did not possess the qualification ~~and~~ ^{without} that even giving her a notices and appointments. Nothing show that she possess ^{ed} the qualifications and that her appointment was proper and valid.

4. The learned counsel ^{for the respondent} on the other hand argued that it was ^{to} find out that the appointment of the applicant was by a mistake ^{as she did not possess the prescribed qualification} and that they had no option but to terminate her services. It is true that ^{up} an appointment has been made erroneusly corrective measure have to be taken, but

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whether the qualification possessed by the applicant satisfied the requirement of the rules or not is a question of facts. The respondent themselves could not have taken a unilateral decision, without associating the applicant with the process, especially when the respondents had verified the certificates when the applicant was appointed. If the respondent consider that the appointment was not valid, as the ^{applicant} qualification did not possess the requisite qualification, they should have given a notice to the applicant and given her an opportunity to establish if she could that the qualifications which she possessed satisfied the requirements as per rules. If she failed they could have validly terminated her services, or cancelled the appointment.

5. To terminate her services without giving her such an opportunity is violative of Principles of natural justice especially when the termination is for a specific reason,

6. In the light of what is stated above we find that the impugned orders at Annexure A-1 and A-5 cannot be sustained. Therefore, we set aside these orders and direct the respondents to reinstate the applicant in service with all consequential backwages for the period she was kept out of service within two months from the date of receipt of a copy of this order. We make it clear that this order does not preclude the respondents to ^{from taking} ~~take~~ action for termination ^{of} the applicant's services in accordance with law, but if they are to terminate her services for the reasons that she does not possess the requisite qualification to hold the post, they may do so only after giving her a notice and an ^{opportunity} ~~appointment~~.

of being heard in accordance with law.

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7. There is no order as to costs.

R.K. Ahooja
(R.K. AHOOJA)
Member (A)



(A.V. HARIDASAN)
Vice-Chairman (J)

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