

Central Administrative Tribunal
Principal Bench.

O.A. NO. 831/95

(9)

New Delhi this the 19th day of February, 1996.

Hon'ble Mr. Justice P.K. Shyamsundar, Acting Chairman.

Hon'ble Mr. K. Muthukumar, Member(A).

Smt. Mithlesh Tyagi,
wife of Shri M.C. Tyagi,
R/o House No.2, Teachers Quarters,
Central School, Air Force Station,
Hindon,
Distt. Ghaziabad (UP) .. Applicant.

By Advocate Shri Gurmeet Singh.

Versus

1. The Director,
Central Hindi Training Institute,
7th Floor, Paryavaran Bhawan,
C.G.O. Complex, Lodi Road,
New Delhi.
2. Union of India through Secretary,
Ministry of Home Affairs,
Department of Official Language,
Lok Nayak Bhawan,
New Delhi-33. .. Respondents.

By Advocate Mrs. Raj Kumari Chopra.

ORDER (ORAL)

Mr. Justice P.K. Shyamsundar.

We have heard both the sides. This is a throw back of an earlier petition disposed off by this Tribunal on its merits. The judgement in another case is in O.A. 2234/90 disposed off on 10.7.1992. After debating all the issues arising out for consideration, the Tribunal concluded the proceedings with the following directions:

(10)

"9. In the conspectus of the facts and circumstances of the case, we see no merit in the present application. We, however, make it clear that in case any vacancy in the post of Hindi Pradhyapak exists anywhere in India, the respondents shall consider appointing the applicant in such vacancy if she is willing to accept the same and till she is replaced by a regular incumbent nominated by the Staff Selection Commission. There will be no order as to costs".

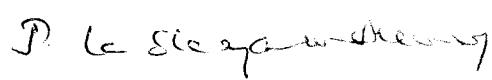
2. We are told that this judgement was a subject matter ^{of a} in Special Leave Petition which failed before the Supreme Court resulting in affirmation of the decision of the Tribunal referred to supra. Pursuant to the directions made in the O.A., as aforesaid, the applicant has been provided with appointment as a Hindi Pradhyapak ~~as~~ posted at Shillong where she is presently working. But what she really wants is regular absorption into service and all other benefits flowing therefrom. We find from the earlier judgement as also by the argument ~~made~~ by the learned counsel for the respondents that ~~the~~ regular appointment can be made only by the Staff Selection Commission and not otherwise. The Staff Selection Commission does the recruitment on the basis of the recruitment rules which, *inter alia*, provide for a minimum and maximum ^{age on} ~~as~~ recruitment. It has been pointed out in the judgement of

this Tribunal referred to supra that the applicant was overaged at the time of initial appointment as Hindi Pradhyapak. That probably would not confer on her any right to be regularly appointed. Be that as it may, what is urged for consideration is that the department is only feeding the applicant with titbits. In that it is urged every now and then she is given a technical break brought on and taken out of the roster. However, it was pointed out by the learned counsel for the respondents that the work of Hindi Pradhyapak is almost seasonal, i.e. from January to May and July to November. In that situation, in the absence of regular appointment being made, the position of people like the Hindi Pradhyapak is bound to be perilous. There is nothing that Government can do to waive that condition. If the question was simple regularisation of an ad hoc employee, different consideration could arise. This is a case in which the applicant does not fulfil the conditions of the recruitment rules being overaged. We do not know if she suffers from any other deficiency as well, & unless, of course, the way ^{in place} for appointment of the applicant by relaxing any conditions that may be ~~necessitating~~ ^{any} permanent

(2)

absorption of the applicant into service becomes otherwise impossible. The analogy of relief being given to ad hoc employee who suffers technical breaks does not arise for consideration. The instant case is clearly distinguishable. The Tribunal in the earlier case made it very clear that whatever position the applicant is provided, it will only be feasible till a regular incumbent is inducted by the Staff Selection Commission. This position remains unaltered. The recruitment rules appear to stand in the way of the applicant on account of which she has suffered innumerable set backs by being taken off duty. The grievance of the applicant is very genuine but that is something which cannot be redressed herein. This application is, therefore, dismissed. However, it is open to the applicant to make a representation to the Staff Selection Commission for permanent fitment and also for relaxation of the age condition, etc. etc. If that is done, it would be for the Staff Selection Commission to consider it in an appropriate light.


(K. Muthukumar)
Member(A)


(P.K. Shyamsundar)
Acting Chairman

'SRD'