

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

D.A No. 129/96

(15)

Date of decision 16-1-1997

Ms Premwati Petitioner

Sh. S.K. Gupta Advocate for the
Petitioner(s)

Versus

Director General, Dte. General of Respondent
Home Guards and Civil Defence & Ors

Sh. Anoop Bagai Advocate for the
Respondent(s)

CORAM

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Sh. R.K. Ahuja, Member (A)

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

OA. No. 129/96

MA No. 116/96

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Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Hon'ble Shri R.K. Aahooja, Member (A)

New Delhi, this the 16th Day of January, 1997.

Premwati

W/o Shri Ramesh Chand

R/o C-5-13, Rajeev Gandhi Camp

Nehru Stadium,

New Delhi.

.... Applicant

(By Advocate Shri S.K. Gupta)

Versus

1. Govt. of NCT Delhi, through
Director General
Directorate General of Home Guards
and civil Defence
CIT, Raja Garden,
New Delhi.

2. Commandant
Home Guards Head quarters
CIT Raja Garden, New Delhi.

.... Respondents

(By Advocate Sh. Anoop Bagai)

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

This case was listed together with OA 1815/95

(Charan Singh & Ors V. The Commandant Delhi Home Guards)

as similar issues of facts and law were involved in these cases. For the reasons given in that case(OA 1815/95) by order of even date, the preliminary objection raised by the respondents regarding jurisdiction is rejected.

2. The applicant has filed MA No. 116/96 for condonation of delay as the grievance arose when the applicant was discharged from service as Home Guards w.e.f. 9.10.1992. We have considered the grounds taken in the MA and the reply find and that sufficient cause has been shown for condonation of the delay. The MA is therefore, allowed.

3. The applicant has submitted that she was discharged verbally from service as Home Guard w.e.f. 9.10.1992. She had been originally engaged w.e.f. 14.10.1985. The respondents

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have stated in their reply that she has been discharged from the rolls of Delhi Home Guards Organisation by the competent authority under Rule 8 of Delhi Home Guard Rules, 1959 which reads as under :-

"the term of office of a member of the Home Guards shall be three years.

Provided that the appointment of any such member may, at any time, be terminated by the Commandant General or the Commandant, as the case may be, before the expiry of the term of office..."

(a) by giving one month's notice ; or

(b) without such notice if such member is found to be medically unfit to continue as a member of the Home Guards.

4. The respondents have admittedly not issued the one month's notice nor has the applicant been discharged on the ground of medical unfitness, as provided in the proviso to the rule. The learned counsel for the respondents, however, submits that since the applicant had been terminated from the services during the period of extension, no notice as required under the proviso to rule 8 was required to be given to her. We are unable to agree with this contention as admittedly her service had been continued from time to time, which can be only in blocks of three years, and, therefore, the provisions of rule 8 would be applicable to the applicant's case. Therefore, the impugned termination of her services without complying with the provisions of Rule 8 is liable to be quashed and set aside.

5. Shri Anoop Bagai, learned counsel for the respondents also submits that the applicant did not file any representation or appeal to the respondents in terms of Section 6-B(3) of the Bombay Home Guards Act, 1947 which has been extended to Delhi by the notification No. P.4/59-CD dated 20.7.1959. The respondents have not acted in terms of the provisions of rule 8 of the Home Guards Rules while discharging the applicant and have in fact only orally discharged her from service. In the facts of the

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case, the question of representation or appeal does not arise.

Having regard to the provisions of Section 20(1) of the Administrative Tribunal Act, 1985, this objection is also rejected.

6. For the reasons given above, the impugned order of termination is quashed and set aside. The O.A. is allowed.

No order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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