

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 763/1996

T.A. No.

(16)

Date of decision 12.11.1993

Yog Maya Mishra

... Petitioner

Sh. S. K. Dass

... Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

... Respondents

Ms. Aparna Bhatt

... Advocate for the Respondents

CORAM

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

The Hon'ble Shri K. Muthukumar, Member (H)

1. To be referred to the Reporter or
not?.

Yes

2. Whether it needs to be circulated to
other Benches of the Tribunal?

No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 763/96

New Delhi this the 12 th day of November, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri K. Muthukumar, Member (A).

Yog Maya Mishra,
wife of Shri G.D. Mishra,
R/o C/o B. Chakraborty,
H.No. J/321, Adarsh Colony, NH-IV,
Faridabad (Haryana) ... Applicant.

By Advocate Shri S.K. Dass.

Versus

1. Union of India through
Secretary,
Ministry of Planning,
Department of Statistics,
Patel Bhawan,
New Delhi.
2. Director,
NSSO (FOD),
Pushpa Bhawan, Pushp Vihar,
New Delhi.
3. Regional Assistant Director,
NSSO (FOD), 4/48-B, Lajpat Kunj,
Agra (UP). ... Respondents.

By Advocate Ms. Aparna Bhatt.

O R D E R

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

The applicant is aggrieved by the order passed by Respondent 3 dated 3.11.1995 removing her from service as LDC with immediate effect.

2. The brief facts of the case are that the applicant was appointed on compassionate grounds as LDC after premature retirement of her husband on invalid pension who was earlier working as UDC. The applicant had submitted her application for appointment on a suitable post in the prescribed proforma together with a certificate of educational

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qualification as required by the respondents. The respondents have submitted that she had stated that she has got the matriculation from Varanasi Sanskrit Vishva Vidyalaya (hereinafter referred to as 'VSVV') while at the time of submitting the certificate she had submitted the certificate issued from "Varanasey Sanskrit University" (for short 'VSU'). They have, however, admitted that after screening of the documents submitted by the applicant, they had appointed her in the post of LDC in the office of Regional Assistant Director, NSSO, FOD, Agra, vide their letter dated 23.5.1991. In this appointment letter, it is mentioned that she has been appointed on compassionate ground in terms of DOP&T O.M. dated 30.6.1987. The applicant states that she joined the post of LDC on 6.6.1991 in the office of Respondent 3. Later, she had also appeared in the typing test on 7.5.1992 which she qualified, and she had been granted the annual increment from 1.6.1992. According to the applicant, she was discharging her duties satisfactorily. She has submitted that on 7.3.1994, the respondents had issued a show cause notice to her that the certificate submitted by her at the time of appointment belonging to 'VSVV' was a false and bogus certificate from a non-existing bogus institution for obtaining employment and accordingly she was called upon to submit her explanation as to why action should not be taken against her for cheating the Government. The respondents have submitted that the explanation given by the applicant was not satisfactory and they decided to conduct the inquiry after which the impugned removal order was passed.

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3. The respondents in their reply have submitted that at the time of submitting the application for appointment, the applicant had stated that she has got the matriculation from "VSVV" while at the time of submitting the certificate she had submitted a certificate issued from the "VSU". In the disciplinary proceedings held against the applicant, the Inquiry Officer in his report has given the following reasons to come to the conclusion that on the basis of documentary and oral evidence adduced before him, he finds that the charge against the applicant is true:

"Smt. Yogmaya Mishra submitted a Purva Madhyama (Matriculation) certificate issued by Varanseya Sanskrit Vishwavidyalaya Varansi numbered 054 dated 12.8.1988. The DA maintains that Varanseya Sanskrit Vishwavidyalaya Varansi ceased to exist w.e.f. 16.12.1974. In support of this, following documents were placed in original:

i) Letter No. Satyapan, GO 193/93 dt. 2/5/7/1993 from Deputy Registrar (Exad) Sampoornanda Sanskrit Vishwavidyalaya Varansi has been changed to Sampoornanda Sanskrit University, Varansi vide Uttar Pradesh Rajya Vishwavidyalaya Adhiniyam No. 10/1973 (Abhyay-1, Dhara-1, Updhara-3), and the Purva Madhyama certificate of Smt. Yogmaya Mishra was not issued by Sampoornananda Sanskrit Vishwavidyalaya, Varansi.

(ii) Letter No. Bha.Sa 29/15.10.94-13101/93 dated 25.4.94 from Anusachiv Govt. of UP which also states that the name of Varanseya Sanskrit Vishwavidyalaya Varansi has been changed to Sampoornanda Sanskrit University, Varansi w.e.f. 16th Dec. 1974 vide Uttar Pradesh Rajya Vishwavidyalaya Adhiniyam No. 10/1973 and therefore all certificates issued in the name of Varanseya Sanskrit Vishwavidyalaya Varansi after 16th Dec. 1974 are bogus, false and illegal".

4. The respondents in their reply contend that Poorva Madhyama certificate which is equivalent to matriculation submitted by the applicant was from "VSU", a University which was not in existence in the year 1988. Ms. A. Bhatt, learned counsel for the respondents has submitted that since "VSVV" did not exist in the year 1988 according to

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the letters referred to in Para 3 above, there was no question of verifying the certificate submitted by the applicant. However, in their reply they have referred to an institution by the name of "Varanasy Sanskrit Vishwa Vidyalaya, Varanasi" which was a registered institution under the provision of the Societies Registration Act, 1860.

5. During the hearing, Shri S.K. Dass, learned counsel, had sought permission to submit written submissions which was allowed. Ms Aparna, learned counsel for the respondents, had also undertaken to submit written submissions *pertaining to the disciplinary proceedings* and the relevant records for our perusal but neither of them has submitted any of these documents.

6. In the rejoinder, the applicant has referred to two letters dated 15.3.1994 and 14.6.1994. In the letter dated 15.3.1994, it has been stated that the applicant had passed Poorva Madhyama examination from the VSVV in the year 1988. In the other letter dated 14.6.1994, she has stated that she has been appointed not on the basis of any merit but on compassionate ground and that her certificate had been verified by the officers concerned before issuing the appointment order. She had also given a set of addresses from where she states that the inquiry may be made in respect of the institution from which she claims that Poorva Madhyama certificate had been obtained. Learned counsel for the applicant has also submitted that Poorva Madhyama certificate of the year 1988 submitted by the applicant from 'VSVV' does not show that it is a certificate from a non-existing institution. The learned counsel has also relied on the respondents' own averment that the 'VSVV' was a registered institution under the provision of the Societies Registration

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Act, 1860. He has also submitted that according to his information (Annexure XIII), this institution was closed vide order of the Delhi High Court in case No. 441/94. He has, therefore, submitted that the respondents without making the necessary inquiry could not come to the conclusion that Poorva Madhyama certificate obtained by the applicant from the 'VSVV', is from a non-existing institution and hence bogus on the basis of which her services had been terminated.

7. We have carefully considered the submissions of the learned counsel and the available records.

8. The chargesheet framed against the applicant reads as follows:

"It is alleged that Smt. Yog Maya Mishra, LDC, NSSO (FOD) Agra submitted a false & Bogus certificate of Purva Madhama (Matriculation) from Varanseya Sanskrit Vishva Vidyalaya Varansi, a non-existing bogus institution, for obtaining employment as Lower Division Clerk in NSSO (FOD) Agra.

Thus, Smt. Yog Maya Mishra charged with obtaining employment by submitting a false certificate and thus cheating the Govt".

9. From the reply filed by the respondents, it is noted that they have stated that there was an institution by the name of 'Varanasy Sanskrit Vishva Vidyalaya, Varanasi, registered under the provision of the Societies Registration Act, 1860. The Poorva Madhyama certificate (matriculation) dated 12.8.1988 in the name of the applicant reads in Hindi as 'वाराणसी संस्कृत विश्वविद्यालय, वाराणसी' and in English as 'Varanasey Sanskrit University'. Therefore, from the respondents' own reply, it cannot be concluded that the matriculation certificate submitted by the applicant is from "a non-existing" bogus institution as the same could be from

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the other registered institution. It is also noted from the other document placed on record that the Delhi High Court in case No. 441/94 is stated to have closed this institution which would, therefore, imply that it can only be after 1988, and such an institution existed at the time applicant submitted her certificate. The respondents could have easily verified the certificate then, which they have failed to do. Learned counsel for the respondents has contended that when the disciplinary proceedings were conducted, they could not possibly have investigated further on the certificate because the order of the High Court had been passed in case No. 441/94. We are not impressed by this argument as according to their own averments there was a society by the name of "Varanasya Sanskrit Vishwa Vidyalaya, Varanasi" registered under the Societies Registration Act which was, in fact, existing till the orders for its closure were passed by the High Court sometime in or after the year 1994. Applicant was appointed as LDC w.e.f. 6.6.1991 and she had also passed typing test and was granted the annual increment w.e.f. 1.6.1992. It is also relevant to note that the respondents themselves have stated that the applicant had been appointed on compassionate grounds as LDC on the retirement of her husband on invalid pension. The contention of the respondents that Varanseyya Sanskrit Vishwa Vidyalaya ceased to exist w.e.f. 16.12.1974 is based on the letters issued by the Deputy Registrar (Exam) of Sampoornananda Sanskrit Vishwa Vidyalaya, Govt. of UP dated 2.7.1993 and from the Under Secretary, Government of UP dated 25.4.1994. From these letters, it is seen that the name of "Varanseyya Sanskrit Vishwa Vidyalaya" has been changed to "Sampoornananda Sanskrit University", Varanasi w.e.f. 16.12.1974 and accordingly they have stated that all the degrees granted in the name of the

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"VSVV" are bogus, false and from a non-existent institution. They have stated that Poorva Madhyama certificate submitted by the applicant is, therefore, not valid as it does not belong to Sampoornanda Sanskrit Vishwavidyalaya, Varanasi. However, we find that these letters do not in any way mention about another registered institution which has been referred to in the respondents' reply, which is also known by the name of Varanasy Sanskrit Vishwa Vidyalaya, Varanasi. In the facts and circumstances of the case, this fact has also to be viewed in the light of what has been stated in Annexure XIII that this institution has been closed by the order of the Delhi High Court in case No. 441/94.

10. Therefore, the findings of the Inquiry Officer, on the basis of which the disciplinary authority had passed the termination order that the applicant had submitted her certificate from a non-existent bogus institution is perverse and unreasonable and has no basis, when such an institution was in fact in existence at that time. The fact that the said institution was ordered to be closed down by a subsequent order of the High Court does not validate the charge as framed against the applicant that she had produced a certificate from a non-existent institution. In this view of the matter it cannot be held that the applicant has submitted the Poorva Madhyama certificate from a non-existent bogus institution as claimed by the learned counsel for the respondents. It is also very relevant to mention here that in cases of compassionate appointment, the respondents

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have power to relax the eligibility conditions, subject to the relevant rules and instructions and the applicant in this case had rendered about 3 years service as LDC.

11. In the circumstances, O.A. is allowed. The impugned penalty order removing applicant from service dated 3.11.1995 and the appellate authority's order dated 24.1.1996 are quashed and set aside. The applicant shall be reinstated in service within one month from the date of receipt of a copy of this order, and shall be entitled to consequential benefits in accordance with law/rules and instructions. Parties to bear their own costs.


(K. Muthukumar)
Member (A)

SRD


(Smt. Lakshmi Swaminathan)
Member (J)