

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1405/97

New Delhi, this 15th day of March, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

Smt. Mamta Sharma
C-898, Jahangir Puri
Delhi-53

Applicant

(By Shri D.S. Garg, Advocate)

versus

Govt. of NCT of Delhi, through

1. Principal
Govt. Sarvodaya School
D Block, Jahangir Puri, Delhi

2. Director of Education
Old Secretariat
Delhi

.. Respondents

(By Shri Vijay Pandita, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The applicant, a part-time worker under the respondents, is aggrieved as her services have been terminated vide order dated 1.3.96 (Annexure 1) without any show cause notice and by a non-speaking order. She is also aggrieved since her services have been so terminated with retrospective effect.

The applicant was engaged as part-time helper (Domestic Science Lab) on ad hoc basis with effect from 2.3.91 on a fixed honorarium of Rs.489 per month and she continued to work in that capacity for more than six years.

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2. Applicant claims that the impugned order is liable to be quashed because she was selected and appointed on the post after calling names of candidates from the Employment Exchange and interviewed by a duly constituted selection committee in accordance with the recruitment rules. The applicant would further submit that she was taken on the job against a regular and full time post of Helper which is evident from the fact that respondents had not specified any period of ad hoc appointment, indirectly indicating that the post was for a longer and continued duration of regular nature. The impugned order cannot be sustained in the eyes of law since no administrative order can be issued with retrospective effect in terms of law laid down by the apex court.

3. In the counter, respondents have raised objections to say that the Tribunal has no jurisdiction to condone the abnormal delay in terms of the law laid down in L. Chander Kumar's case reported in JT 1997 (3) SC 589. Quoting the judgement of the apex court in the case of UOI Vs. R.C. Samanta, JT 1994 (3) SC 418, respondents have argued that delay defeats equity and court could help only those who are vigilant and not those who are indolent. In case of Samanta (supra) the Hon'ble Supreme Court has held that delay deprives ^{a man} of the remedy available in law. The cause of action ^{^ body} arose for the applicant in August, 1995 when her services were really

disengaged though communicated to her by an order dated 1.3.96. Applicant should have, therefore, approached the Tribunal in time.

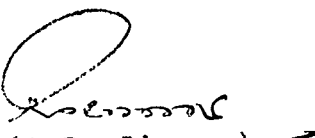
4. The question that arises for determination is whether a part-time worker does have a legal right to get regularised against a regular post. It is not in dispute that the applicant was not holding any civil post nor was she appointed as per procedures laid down for filling up such posts. While dealing with similar subject in the cases of *Sukubhai & Anr. Vs. Secretary/Min.of Communication & Anr.* in OA No.912 and 961/92 and in *B.S.Chandalyiah Vs. UOI* in OA 2191/94 decided on 9.6.93 and 8.10.97 respectively, this Tribunal held that the benefit of casual labour Scheme (grant of temporary status/regularisation) dated 10.9.93 is equally applicable to part-time labourers. In ~~deciding~~ ^{examining} a group of such cases in Civil Appeals No.2002 to 2008/97 decided on 2.4.97, the apex court held that the Tribunal was not right in coming to the conclusion that the instructions for conferring temporary status to the casual labourers as contained in the aforesaid Scheme of 10.9.93 is also applicable to part-time casual workers. The apex court reiterated their views once again while deciding a similar case in Civil Appeal No.7437/97, arising out of SLP (C) 12312/97 decided on 24.10.97.

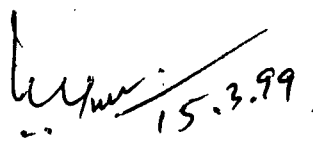
5. In the light of law laid down by the apex court on the subject of claims for regularisation of part-time workers, the applicant's case has no legs to stand. We, however, find that by the impugned order dated 1.3.96

she has been disengaged from services with retrospective effect i.e. 28.8.95. This is not permissible in terms of law laid down by the apex court in Govind Prasad Vs. R.G. Prasad, 1994 SCC (L&S) 579.

6. In view of the details aforementioned, the OA deserves to be dismissed and we do so accordingly. However, since her services have been disengaged with retrospective effect, it is possible that she has performed duties after 28.8.95 till 1.3.96. If that be so, she will be eligible for wages/remuneration as per rates applicable for that period and no recovery shall be made, if already paid.

7. The OA is disposed of as aforesaid but without any order as to costs.


(S.P. Riswas)
Member (A)


15.3.99
(T.N. Bhat)
Member (J)

/gtv/