

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA.No. 412 of 1994

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Dated New Delhi, this 29th day of November, 1994.

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman(J)
Hon'ble Mr B. K. Singh, Member(A)

Ms Nilima Roy Choudhary
C/o Shri M. R. Bhardwaj, Advocate
D-7, Hauz Khas, New Delhi-16.

.... Applicant

By Advocate: Shri M. R. Bhardwaj

Versus

1. Chief Secretary
Govt. of the National Capital
Territory of Delhi
Old Secretariat
DELHI.

2. Secretary(Education)
Govt. of National Capital
Territory of Delhi
Old Secretariat
DELHI.

3. Director of Education
Directorate of Education
National Capital Territory
of Delhi, Old Secretariat
DELHI.

... Respondents

By Advocate: Shri Arun Bhardwaj

O R D E R
(Oral)

Mr Justice S. K. Dhaon, VC(J)

On 22.9.94, this OA came up for hearing before this Tribunal. The judgement was dictated in open Court dismissing the OA. However, while polishing the judgement, we felt that the matter required further investigation. On 28.9.94, the Tribunal directed that the matter be listed on 3.10.94.

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2. On 2.11.94, we granted time to the counsel for the respondents to file ^areply to the rejoinder affidavit as fresh facts had been stated in the same. To-day, we have heard the counsel for the parties again and we are proceeding to dispose of this OA.

3. This OA is directed against the notice issued in the purported exercise of powers under rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965, terminating the services of the applicant with effect from the date of expiry of a period of one month from the date of service of notice.

4. By a common order dated 26.5.93, the Deputy Director of Education appointed not less than 54 teachers on temporary basis. The applicant was one of them.

5. By a letter dated 12.4.93, the applicant was offered a temporary/ad-hoc appointment as a Music Teacher. The material terms of appointment were these:

- i) The post is temporary.
- ii) The period of probation will be two years. The period can be extended at the discretion of the appointment authority.
- iii) The promotion can be terminated by a month's notice, given by either side, namely the appointee or the appointing authority without assigning any reasons. The appointing authority however reserves the right of terminating his/her services forthwith or before the expiry of a stipulated period of notice by making payment to him/her of a sum equivalent to the pay and allowances for the period of notice or the un-expired probation thereof.

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It was also made clear to the applicant that if any declaration given or information furnished by her, proved to be false or if it is found that she has wilfully suppressed any material information, she will be liable to be removed from service and such other action as may be considered necessary.

6. The terms of the appointment are in consonance with rule 5 of the Rules. Therefore, on the basis of terms and conditions of appointment letter, no illegality is discernible in the impugned order of termination.

7. In the counter affidavit filed on behalf of the respondents, it is stated that the applicant was not in possession of requisite qualifications when she was appointed. The requisite qualifications for recruitment as a Teacher were either B.A. Degree with Music as one of the subjects from a recognised university, or, higher secondary with any one of the qualifications mentioned thereafter. The applicant was at that time a High School pass with a diploma in Sangeet Visharad from Gandharva Mahavidyalaya, Bombay. She was, therefore, not qualified to be appointed as a Music Teacher. This fact is not denied by the applicant in the rejoinder affidavit. However, our attention has been drawn by the counsel appearing for her to an application dated 12.7.93 submitted by her to the authority concerned stating therein that though she appeared in Higher Secondary Examination, she

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13

failed in two subjects and she was re-appearing and, therefore, should be permitted. From this document it is sought to be inferred that the respondents had made a promise to her that in case she attains the required qualification, her appointment will not be disturbed. In the absence of any order, no such inference can be drawn.

8. In the additional affidavit filed on behalf of the respondents, it has been averred that apart from the applicant, the appointments of 11 other candidates who were similarly situated, were done away with as they failed to meet the eligibility criteria. However, in the additional affidavit it is stated that there are three existing vacancies to be filled up. If the applicant applies, we have no doubt that her case will be considered on merits and in accordance with law.

9. With these observations, this OA is finally disposed of but without any order as to costs.

(B. K. Singh)
Member(A)

(S. K. Dhaon)
Vice Chairman(J)

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