

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 1467/2000

New Delhi this the ...01...day of January, 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Smt. Natho Devi,
Widow of Late Shri Khem Chand
Designated as Dhobi (Daily Wages)
In Raj Kumari Amrit Kaur College of Nursing,
Ministry of Health & Family Welfare,
Residing at Qtr No.10,
RAK College of Nursing,
Lajpat Nagar,
New Delhi : 24 Applicant
(By Advocate : Shri B. Krishnan)

VERSUS

1. Union of India, through the
Director General of Health Services,
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi
2. The Principal,
Raj Kumari Amrit Kaur College of Nursing,
Lajpat Nagar,
New Delhi : 24 Respondents
(By Advocate : Shri N.S. Mehta)

O R D E R

The applicant in this OA is aggrieved by the order of termination of her services with effect from 7.8.2000 vide order dated 2.8.2000. She was holding the post of Dhobi (Washerwoman) (Annexure A-1). She is further aggrieved by another order dated 24.7.2000 passed by the respondents directing her to vacate the Govt. quarter No.10 (Type-I). She is also aggrieved by the fact that the respondents have treated her as a daily wager rather than as a regular employee who has rendered more than 24 years of continuous service. The principle of equal pay for equal work has also been violated in her case.

2. I have heard the learned counsel on either side and have perused the material on record.

3. The respondents' case is that the applicant was never appointed on a regular basis and the services of a Dhobi (Washerwoman) are not required by the respondent College of Nursing on a regular basis. The services of the applicant were, according to the respondents, requisitioned as a Dhobi w.e.f. 23.9.73 and the payment for the same was made out of the contingency fund. The applicant's age at the time of her appointment in service was 53 years and that at present, she is more than 80 years of age. The date of her birth is 2.6.1920. She cannot, therefore, be retained as a casual labour. According to the respondents, an Identity Card was issued to the applicant to permit her to have access to the premises of the College of Nursing and the CGHS Card was issued to her as a measure of health care and that the issuance of Identity Card and the CGHS ^{card} cannot mean that the applicant was appointed as Dhobi in a regular time scale in the Establishment of Respondent No.2. There is no sanctioned post of Dhobi in the respondents' establishments. The respondents have denied the applicant's contention that she was being replaced by another person and that is why her services have been terminated. The accommodation provided to the applicant was cancelled and she was asked to vacate the premises in 1996 vide order dated 10.7.96 as she was found mis-using the Govt. premises by staying therein with her family although the same was given to her for use as a Go-down for keeping students' uniforms etc. The applicant has been working as a casual labour and has been paid on daily wage basis for the work given to her.

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4. In agreement with the contentions raised on behalf of the applicant, I find that it would be incorrect on the part of the respondents to say that the applicant was not regularly employed. The applicant was appointed by an order reproduced below:-

"Reference this office order No.2-1/73, dated 11.10.73 sanctioning Extra-ordinary Leave without pay to Shri Khem Chand, Dhobi w.e.f. 23.9.73 to 3.10.73.

Smt. Natho, W/O Shri Khem Chand is hereby appointed as Dhobi in place of Sh. Khem Chand w.e.f. 23.9.73. She will draw a pay of Rs. 70/- PM fixed plus usual allowances admissible to the Govt. employees of her status paid from the contingencies."

The aforesaid order clearly provides that the applicant was appointed as Dhobi w.e.f. 23.9.73 and that she was to draw a pay of Rs. 70/- PM plus usual allowances admissible to the Govt. employees of her status. According to me, the language in which the aforesaid order is couched, clearly establishes that the applicant was appointed on a regular basis and was treated as a Govt. employees.

5. The respondents' contention that since the same order provides that the pay and allowances were to be paid do the applicant from contingency would go to show that she was not to be treated as a regular Govt. employee, cannot be accepted. The source from which a Govt. employee is paid cannot alter the status of an employee and accordingly an employee appointed in the manner the applicant has been appointed has every right to be treated as a regular Govt. employee. I also do not accept the respondents' views that issuance of

Identity Card and the CGHS Card do not have any meaning in terms of the status of an employee. According to the learned counsel for the applicant such cards are issued only to the regular Govt. employee.

6. I am disappointed to see that although the applicant was employed in a regular manner, the respondents started making payments to her on a daily basis at the rate of Rs.18.80 paise per day as reflected in the certificate dated 17.8.98 placed on record. The applicant, not being a literate person, was taken for a ride by the respondents in this matter. The learned counsel for the applicant states that for the same reason the applicant cannot even remember the date from which the respondents started making payments on daily wage basis as aforesaid and further at what rates payments made to her from time to time.

7. I also do not agree with the respondents that the Govt. quarter was given to her not for residential purposes, but for the purpose of maintaining a Go-down therein, The order dated 24.7.2000 placed on record is reproduced below:-

"In pursuance of Directorate General of Health Services' letter No.A.11011/10/2000-N dated 10.7.2000 (copy enclosed), Smt. Natho Devi, Dhobi is hereby directed to vacate the Store Room/Quarter No.10, Type-I, College campus, within a period of 60 days from the date of issue of this order and hand over the full vacant possession of the said Store Room/Quarter to the office of the College failing which eviction proceedings will be initiated under the Public Premises (Eviction of Unauthorised Occupants Act), 1971."

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It would seem that the Govt. quarter, in question, was occupied by the applicant as Store Room/Quarter. That is to say she was allowed to occupy the said quarter at least partly for residential purposes. Her services having been legitimately terminated, the respondents are free to proceed against her for getting the aforesaid quarter vacated by launching proceedings under the Public Premises (Eviction of Unauthorised Occupants Act), 1971. 12

8. There is no substance in the contention raised by the learned counsel for the applicant in regard to her age. From a copy of the CGHS Card placed on record by the respondents I find that the date of birth of the applicant recorded therein is 2.6.1920. In yet another paper placed on record by the respondents, giving particulars of the family members of the applicant's late husband, the same date of birth is recorded. In the circumstances, I cannot find fault with the respondents in having terminated the services of the applicant at the time they did so.

9. Accordingly, I am not prepared to grant any relief to the applicant in respect of the termination of her services nor in respect of the vacation of the Govt. quarter under her occupation. I would like to note, however, the respondents cannot blame the applicant for having been allowed to work well after the age of 60 years which is the date of super-annuation for Group 'D' employees of her status. In any case she deserves to be treated as a regular govt. employee upto the age of 60 years.

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10. In the peculiar circumstances of this case, with the consent of the learned counsel for the respondents and in agreement with the learned counsel for the applicant, I would like to dispose of this OA by directing the respondents to treat the applicant as a regular group 'D' employee from 23.9.1973 and treat her as having super-annuated on reaching the age of 60 years i.e. on 1.6.1980, and to grant to her all the consequential benefits in respect of the aforesaid period. I would also like to direct the respondents to grant her pension if at all she became eligible for the same in accordance with the rules and regulations on the subject by treating her as having super-annuated on 1.6.1980. I would further like to direct the respondents to scrutinise their records so as to see if the applicant was paid for the services rendered by her as Dhobi after attaining the age of 60 years at the rates applicable to daily wagers in accordance with the Minimum Wages Act and such other laws as might be applicable in such cases, and to pay to her the arrears, if any, which thus become payable by taking into account the rates at which payments were actually made to her during the aforesaid period.

11. The respondents are also directed to take action in respect of the directions contained in Paragraph 10 above as expeditiously as possible and in any event within a period of three months from the date of receipt of a copy of this order.

12. The present OA is disposed of in the aforesaid terms.

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No costs.

S. A. T. Rizvi

(S.A.T. RIZVI)
MEMBER (A)

(pkr)