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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 363/1988. DATE OF DECISION: 31.7.1991.

Smt. Omwati Applicant.

V/s.

Lt. Governor & Anr. Respondents.

CORAM: Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman(J).
Hon'ble Mr. I.P. Gupta, Member (A).

(Judgment of the Bench delivered by Hon'ble
Mr. Justice U.C. Srivastava, Vice Chairman)

JUDGMENT

The applicant, whose name was sponsored through Employment Exchange, was appointed as Supervisor vide appointment letter dated 21.10.1982 and her appointment was regularised by the letter dated 14.3.1983. She has approached this Tribunal against the order dated 27th October, 1984, as per which her services have been terminated under the Central Civil Services (Temporary Service) Rules, 1965. In the written statement, the main pleas taken by the respondents are that she was appointed on ad-hoc basis for a period of three months in the first instance and later on, she was appointed on a regular basis and that on the basis of some complaints regarding validity of her appointment as Supervisor on the ground that she does not possess the requisite educational qualification, her services were terminated.

2. According to the rules, the minimum qualification for the post was Graduate of a recognised University and knowledge of Hindi was prescribed as desirable. The applicant's name was sponsored by the Employment Exchange and she had mentioned her qualifications in her application thereafter she was appointed by the appointing authority. Later on, when it was brought to the notice of the appointing authority that she was not a Graduate from a recognised University but had passed Madhyama Examination of Hindi Sahitya Sammelan, Prayag (Allahabad), an inquiry behind her back was made by the Central Government and after receiving

a report that the examination which the applicant had passed has been equated to B.A. in so far as the standard of Hindi is concerned, her services were terminated.

3. It is true that the applicant's services were terminated in October, 1984 under Rule 5 of the CCS (Temporary Service) Rules, 1965 and thereafter she made a number of representations to the Lt. Governor. In reply to one of her representations sent through Minister of State for External Affairs, New Delhi, the Lt. Governor replied by letter dated 27.2.1985 that the matter was being considered. Subsequently, she was offered the post of Anganwadi worker, which is said to be a lower post and that is why she did not accept the same. She, however, continued sending representations right from May, 1986. After her representation dated 10.4.1987, the applicant states that because of her serious illness, which is supported by a medical certificate, she could not pursue it further till 15.1.1988, to which a reply was sent on 10.3.1988. In view of the fact that the representation of the applicant dated 15.1.1988 was entertained and was replied to, it can be said that her representation was disposed of on merits and, as such, the limitation would start from that date. In this connection, reference may be made to the case of SUALAL YADAV v. THE STATE OF RAJASTHAN & OTHERS (A. I.R. 1977 S.C. 2050).

4. So far as the merits of the case are concerned, the applicant is not to be blamed as she was admittedly appointed as Supervisor on a regular basis after completion of the requisite codal formalities. It was thus for the appointing authority to ensure that the applicant fulfilled all the prescribed qualifications before she was actually appointed. The applicant had clearly mentioned her qualifications and the examination which she passed has been equated to B.A. in so far as the standard of Hindi is concerned and knowledge of Hindi was also prescribed as a desirable qualification. Once having been appointed on a regular basis, obviously, her services

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could not be terminated in such a manner without giving to her an opportunity of hearing. The termination of her services in the circumstances is to be held arbitrary and cannot be sustained.

5. In view of the foregoing discussion, the termination order dated 27.10.1984 is hereby quashed and the applicant shall be deemed to be continuing in service so long as her services are not terminated in accordance with law. So far as the back wages are concerned, she shall not be entitled to claim the same from the date of termination of her services till she reports for duty. There shall be no order as to costs.

I.P. Gupta
(I.P. GUPTA)
Member(A)

U.C. Srivastava
(U.C. SRIVASTAVA)
Vice Chairman(J)

31.7.1991.