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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

Registration No. 1161 of 1986.

Smt. Veena Gehani Applicant.

Versus

Union of India Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Ms. Usha Savare, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant has approached this Tribunal against her termination order dated 1.5.1986. The applicant was appointed as stenographer Grade-II in the scale of Rs.330-560 in the Department of Chemicals & Petro-Chemicals under the Ministry of Industry Government of India. She was thereafter appointed as stenographer Grade-III on 1st July, 1970 in Trombay Fertiliser Commission of Inquiry under the Government of India after her name was sponsored by the Employment Exchange. She worked there right upto February, 1974 thereafter as a result of reduction in the strength of the staff, she was relieved from the service under the aforesaid commission and appointed as stenographer-Grade-III in the scale of Rs. 330-560 in the then Ministry of Petroleum and Chemicals on adhoc basis. Thereafter, she continuously worked as stenographer Grade-III and she was also allowed to cross the Efficiency Bar w.e.f. 1st July, 1978. It was clearly mentioned in the offer of appointment of the applicant dated 19th February, 1974 that the post was purely temporary and was upto the date of the qualified candidates on the basis of Grade-III Examination became available. The applicant was appointed in the year 1974

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on purely adhoc basis and upto the year 1984 no direct recruits came, due to the slackness and carelessness of the department and the applicant was in very much hope that she would be allowed to continue in the department because no regular selection was made on the said post and to this effect, the applicant did not try her luck elsewhere and allowed herself to become overage. In the year 1984, direct recruits came, and in the year 1985 a special Examination took place but the applicant could not succeed in the same.

2. According to the respondents, the applicant was only allowed to continue in the department because of the paucity of the Stenographers and when the number of qualified candidates were available in the department, the services of the applicant were retained to the maximum extent possible and in sympathy with the applicant to enable her to qualify in, subsequent regular examinations held. While, the applicant did not appear in all the regular examination held from time to time, she failed to qualify in the special Examination held in July, 1985. Thereafter, she was thrown out from the department, because there was no work for her elsewhere in the department.

3. The learned counsel for the applicant contended that after 16 years of regular service, the applicant could not be thrown out from service and she should be considered for regularisation by the department but the department ~~had~~ tested the applicant and found her fail, and in this connection he has made reference of a Supreme Court decision in Dr. K.K.Jain's case.

4. Sri K.C. Mittal, learned counsel for the respondent has vehemently opposed the plea of the applicant and has stated that rules ~~do not~~ provide for any such regularisation and

relaxation is to be done to a class and not to an individual and for the applicant, the department has allowed the applicant to appear in the special Examination, in which she could not qualify. In our opinion, the department could have taken this step earlier. It is settled principle of law that no body should suffer because of the laches and delay on the part of the Government. In this connection a reference is made to the case of State of Maharashtra Vs. J. S. Karindiker, 1991, SC page 1103.

5. Accordingly, the respondents are directed to consider the case of the applicant again and in case, any examination to this effect takes place, it is not necessary that she should be examined like any other fresh recruit. Let this consideration for reappointment of the applicant be considered by the respondent within a period of three months from the date of the receipt of the copy of this order after testing her merit and this will be done notwithstanding the fact that because of the delay and laches on the part of the Government, she has become overage. In case after completing all formalities, she may be given appointment, it will be open for the department to give her continuity without giving her any back wages. The application is disposed of with the above directions. No order as to the costs.

D. Savant
Member (A)

Dated: 21.12.1992

(n.u.)

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Vice-Chairman