IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 1893/87 .. Date of decision: 13.05.93

Smt. N. Chamundeshwari.. Applciant

Versus

Union of India .. Respondents.

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Hon'ble Sh. A.B.Gorthi, Member (A)

Hon'ble Sh. C.J. Roy, Member (J)

For the applicant .. None

For the respondents .. Sh. M.L. Verma, Counsel.

J U D G E M E N T (Oral)

(Delivered by Hon'ble Sh. A.B. Gorthi, Member (A)

The short prayer of the applicant is that the order dated 5.9.86 giving notice of termination of her temporary service be quashed and that she be reinstated in service with all consequential benefits.

The applicant registered her name with the Employment Exchange. As the respondents required some Storekeepers to fill up the existing vacancies, names of candidates were called for from the Employment Exchange. The applicant's name was duly sponsored. She was thereafter selected for appointment and was appointed vide order dated 14.07.86 as a temporary Storekeeper in the pay scale of Rs. 260-400. The said appointment order shows that she was put on probation for a period of 2 years with effect from 14.07.86. The applicant had hardly worked for about 3 months when the impugned order containing the notice of termination was served upon her.

The respondents, in their brief affidavit, have not disputed the basic facts brought out in the application. They have, however, clarified that initially there was a ban with regard to appointment but it was lifted vide DGAFMS letter No. 33060/gen/DGAFMS /DG-2B dated 3rd September, 1986. As the ban was lifted, they went ahead and recruited the applicant. But the respondents did not realise that the ban was lifted subject to certain modified guidelines vide Ministry of Finance (Department of Expenditure) Letter No. F.7/10.E (Coord)/87 dated 20.05.86. As a result of the modified guidelines it became transparent that the appointment of the applicant as a temporary Storekeeper was not permissible and thus, it was irregular. As the appointment was purely on temporary basis, the respondents invoked Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965 for the purpose of terminating her service. In other words, the respondents' contention is that the termination is neither punitive nor on account of her unsatisfactory service.

None appeared for the applicant although the case was listed for hearing today peremptorily. We have, therefore, perused the records and also heard the learned counsel for the respondents. The appointment order which is at Annexure-B to the application makes it very clear that the appointment of the applicant was purely on temporary basis. The explanation offered by the respondents is genuine, and faced with the administrative problem of the modified ban, the respondents were left with no alternative but to terminate the services of the applicant. In doing so, they have rightly invoked Rule 5 (1) of C.C.S. (Temporary Service) Rules, 1965. Acting under

the said rule, the respondents gave due notice to the applicant on 15.09.86. Under these circumstances, we cannot find any fault with the action of the respondents in terminating the applicant's service under Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965.

Although the impugned order is dated 05.09.86 and the services of the applicant must have come to an end one month thereafter, the applicant filed this application on 28.12.87. From the rejoinder we find that an application for condonation of delay has been filed. Although the same does not seem readily available on the record, keeping in view the facts of the case, this application need not be rejected on the mere technical ground of delay.

On merit, we find that the application does not deserve to be allowed. The application is, therefore, dismissed.

There shall be no order as to costs.

(C.J. Roy)
Member (J)

(A.B. Gorthi)
Member (A)

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