

In the Central Administrative Tribunal
Principal Bench: New Delhi

Regn. No.OA 630/87 Date of decision: 16.09.1992.

Smt. Sunit Mehta

...Petitioner

Versus

Union of India through
Secretary, Ministry of Food &
Civil Supplies, Shastri Bhawan,
New Delhi.

...Respondent

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the petitioner None

For the respondent Shri A.K. Behra, proxy counsel
for P.H. Ramchandani, Senior
counsel.

Judgement (Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

None appeared for the petitioner. We have perused the petition and heard the learned proxy counsel for the respondents. The petitioner was appointed on ad hoc basis for a period of four months as L.D.C. (Hindi Typist) by order dated 16.10.1979 w.e.f. 3.10.1979. The offer of appointment as also the order make it clear that the appointment was ad hoc and on temporary basis, pending regular recruitment to the post and that the ad hoc appointment would not give any preferential right in the matter of regular appointment to the post. The petitioner continued in the ad hoc appointment for quite some time. Having regard to the situation created by large number of ad hoc appointments a scheme was drawn

up for the purpose of regular absorption of ad hoc employees. Such a scheme is produced as Annexure IX dated 7.8.1992. This scheme is to hold a special examination from among those eligible for taking the examination and to appoint such of them who are successful in such an examination. The scheme further provides that such of those who are/eligible to take the examination or those who do not take the examination or those who take the examination and fail to qualify shall have their services terminated after the result of the special examination is declared. So far as the eligibility for taking the examination is concerned, two conditions have been prescribed. Firstly, that the candidate should have been within age for appointment as on the date on which he/she was originally appointed on ad hoc basis and secondly that he/she should have rendered at least one years' service as on 1.8.1982. Though, an examination was held in the year 1982 in pursuance of the scheme, the petitioner was not permitted to take the examination, as the authorities took the view that she was not eligible. It is in this background that her services were terminated with immediate effect by order dated 24.06.1986 w.e.f. 30.06.1986. It is in this background that the petitioner has approached the Tribunal for relief, praying that the action of the respondent, terminating her services w.e.f. 30.06.1986 be declared as illegal,

arbitrary and discriminatory and that she be deemed to be continued in service and for a further direction that the action of the respondent in not treating the petitioner as regular employee also be deemed illegal, arbitrary and discriminatory and for consequential benefits. There is also a prayer for a direction that withholding of the payment of pay and allowances for the period from 16.8.1984 to 13.11.1984 during which period she had remained on authorised maternity leave be held illegal and arbitrary and the respondent be directed to make payment of salary for the said period.

2. So far as the eligibility of the petitioner for taking the examination for regular appointment is concerned, it was pointed out that the maximum age for recruitment to the post of L.D.C. at the relevant point of time was 25 years. The date of birth of the petitioner being 16.7.1954 and the date of ad hoc appointment being 3.10.1979, it is clear that the petitioner was beyond 25 years ^{of age} as on the date on which she was appointed on ad hoc basis. There cannot, therefore, be any doubt that the petitioner had not satisfied the condition of eligibility for taking the special examination for regular appointment from among the ad hoc employees. The scheme

under which the examination was held also does not contain any provision for relaxation. The scheme expressly stipulates that those who are not eligible for taking the examination are liable to have their services terminated after the examination is held and the results are announced. As that event took place, it is not possible to take the view that the termination of the services of the petitioner was illegal or arbitrary.

3. The petitioner cannot claim regularisation of her services de hors the scheme. The scheme was specifically envisaged for giving benefit to ad hoc appointees who fulfil the eligibility conditions. The petitioner does not have any right otherwise for regularisation of her services contrary to the scheme.

4. So far as the claim of the petitioner for payment of pay and allowances for the period during which she was on maternity leave from 16.8.1984 to 13.11.1984 is concerned, unfortunately at the relevant point of time the rules did not permit any benefit during the maternity period in this behalf for ad hoc appointees. Hence the petitioner cannot claim payment of pay and allowances for the said period.

5. For the reasons stated above, this petition fails and is dismissed. No costs.

I. K. Rasgotra
(I.K. Rasgotra)
Member(A)

V. S. Malimath
(V.S. Malimath)
Chairman

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