

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1132/90
T.A. No.

199

DATE OF DECISION 31.5.1991

<u>Smt. Daljit Sahir</u>	Petitioner Applicant
<u>Shri A.K. Sikri</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India through Secy., Min. of External Affairs & Ors.</u>	Respondents
<u>Smt. Raj Kumari Chopra</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who has worked as Housekeeper in the Akbar Hotel, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the order dated 17.5.1990 and for directing the respondents not to disturb the place of her posting as Housekeeper at Akbar Bhavan.

2. On 4.6.1990, the Tribunal passed an interim order restraining the respondents from deploying the applicant to a lower post than the post of Housekeeper in which she has worked for several years. The interim order has thereafter been continued till the case was finally heard on 15.5.1991.

3. Akbar Hotel is a unit of the Indian Tourism Development Corporation (I.T.D.C.). There were 550 employees of the said Hotel. A decision had been taken for handing over the premises of the said Hotel to the Ministry of External Affairs to house its officers in addition to its offices at South Block, Shastri Bhavan, Patiala House, External Affairs Hostel, Kasturba Gandhi Marg, External Affairs Hostel, Gole Market and Vigyan Bhavan. As a result of the arrangement between the workers and the management of the Hotel, 137 employees of the said Hotel were offered employment in the Ministry of External Affairs on fixed salaries by an order dated 25.6.1986. In the meanwhile, the Supreme Court had passed the following order on 28.1.1988 in CWP-468 of 1986 filed by the Akbar Hotel Employees Union praying for restraining the Union of India from closing the Hotel and protecting the employment of the employees of the Hotel:-

"Heard learned Counsel for the parties.....
In regard to the adjustment of the retrenched employees of the hotel, a statement is made on behalf of the Respondent No.1 that every retrenched employee has already been provided alternate service and learned counsel for the respondent No.1 has also stated before us that in regard to each of such adjusted employees, last pay drawn before the hotel closed down, shall be paid and wherever necessary the difference would be treated as personal pay until appropriate pay-scale is available."

or

4. The applicant has stated that she has filed a separate application in the Tribunal regarding her regularisation with the erstwhile Akbar Hotel, including fixation of appropriate pay-scale, benefit of past service, arrears of pay, etc.

5. The applicant has contended that the respondents had taken over these 137 employees of the erstwhile Akbar Hotel which were to be absorbed by Ministry of External Affairs and the posts specially created for maintenance of the said Akbar Bhavan. Thus the specific post against which the applicant was appointed, was created for the maintenance of Akbar Bhavan and she was recruited as House Keeper, Grade-I for the maintenance of Akbar Bhavan only. Thus, her service conditions could not be changed either by shifting her somewhere else or by giving her some other designation than House Keeper. Thus, it gives right to her to promotion in Akbar Bhavan as House Keeper (subject to further promotion as per the rules to be formulated).

6. Contrary to the aforesaid position, the respondents issued an order on 19.5.1989 placing the services of six House Keepers, including the applicant, at the disposal of P.D. Section of the Ministry of External Affairs. By
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order dated 22.5.1989, the applicant has been deployed from P.D. Section to P.C. Section. On 2.6.1989, the respondents issued an order whereby she was deployed from P.C. Section to Central Registry (South Block). Again, on 6.11.1989, she was deployed to Property II Section, Ministry of External Affairs, Akbar Bhavan. On 17.5.1990, the respondents passed another order, surrendering her to P.F. Section.

7. On 5.10.1990, the applicant was deployed as House Keeper in New External Affairs Hostel, Gole Market, New Delhi.

8. The respondents have stated in their counter-affidavit that according to the terms and conditions of appointment, the applicant has been appointed as House Keeper in the Ministry of External Affairs and that she, along with others, has been deployed in various wings/buildings, according to exigencies of public service. She has no right to be appointed only for the specific purpose of work related to the maintenance of Akbar Bhavan (the new name of the erstwhile Akbar Hotel). According to them, House Keepers are given consolidated emoluments and that there is no reduction in status, as alleged.

Or

9. We have carefully gone through the records of the case and have considered the rival contentions. The learned counsel for the applicant relied upon numerous rulings* and we have duly considered them. It is clear from the Memorandum dated 6.5.1986 issued by the respondents that the applicant was appointed to the post of House Keeper in the Ministry of External Affairs in a temporary capacity and on a consolidated pay of Rs.1181.85 (fixed) per month. A case concerning her status and fixation of pay is pending in this Tribunal in a separate application. After the applicant was appointed as House Keeper in the Ministry of External Affairs, she has been deployed in several Sections, as mentioned above. The respondents have also stated that she has availed of 330 days' leave from 24.9.1987 to 25.11.1988 though she is entitled only to 5 days of leave. In 1989, she was absent on leave for 55 days and in 1990 till date, 72 days'. According to them, she is still absenting from duty.

10. In our view, so long as the applicant is retained in the Ministry of External Affairs with the designation of 'House Keeper' and so long as she is paid salary in accordance with the terms of her appointment, she has no legal right to insist for a posting at a particular

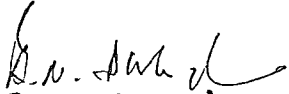
*Authorities cited by the learned counsel for the applicant:

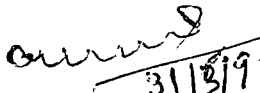
1967 SLJ 750; AIR 1959 All. 629; 1971 (2) SLR 453;
1973 (2) SLR 659; 1969 SLR 576; 1974 (2) SLR 199.

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place alone. We do not, therefore, see any illegality in the impugned order dated 5.10.1990 whereby she has been deployed as House Keeper in the New External Affairs Hostel, Gole Market, New Delhi. Her posting at the said Hostel should not prejudicially affect her claim for absorption in the Ministry of External Affairs, along with other ex-Akbar Hotel employees, when the question of absorption of such employees is taken up for consideration. Wherever the applicant is posted as House Keeper within the office of the Ministry of External Affairs, she should be paid the same amount as per the terms of her appointment. The application is disposed of accordingly. The interim order passed on 4.6.1990 and continued thereafter, is hereby vacated.

There will be no order as to costs.


(B.N. Dhoundiyal)
Administrative Member 31/3/91


31/3/91
(P.K. Kartha)
Vice-Chairman(Judl.)