

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1386/90 T.A. No. 199

DATE OF DECISION 23.8.91

Smt. Neetu Sharma

Petitioner Applicant

Shri O.P.Khokha & Sh.K.L.Bhatia, Advocates for the Petitioner(s) Applicant

Versus

U.O.I through Secy. Ministry of Textiles & anr. Respondents

Shri K.C.Mittal, Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D.K.CHAKRAVORTY, MEMBER (A)

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

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. D.K.CHAKRAVORTY, MEMBER)

filed
This is an application/under Section 19
of the Administrative Tribunals Act, 1985 against
the alleged illegal and arbitrary order by which
the applicant was terminated from service. The
applicant has prayed for the following reliefs:-

- "(a) to call for the relevant records of the respondents;
- (b) that the impugned order dated 20.6.90 may be set aside as being illegal and she may be deemed to have continued in service from the date of the said order;
- (c) that the respondents may be directed to reinstate the applicant from the said date as if that order was not issued and pay her salary and allowances for the entire period; and

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(d) that the respondents may also be directed to treat her as regular appointee to the post of Stenographer Grade III from the date of her initial appointment."

2. The brief facts leading to the filing of this application are as follows. The applicant was appointed to the post of Stenographer Grade III purely on ad hoc basis in the scale of Rs.330-560 in the office of the Development Commissioner for Handlooms vide order dated 19th June 1986 with effect from 18th June 1986. She worked in that office continuously till her termination vide order dated 20.6.1990. The order of appointment was issued with the approval of the Head of the Department i.e. the Development Commissioner for Handlooms. The appointment continued for a period of four years without any break in service though it was termed as ad hoc appointment. The appointment was made through a proper ^{on} selection namely/passing the prescribed test in shorthand as well as in typing. The applicant was appointed against a regular vacancy of Stenographer Grade III. She has contended that since she has been continuing in the post for the last 4 years, without any break, she has acquired the status of temporary employee and thus she is covered by the provisions of C.C.S.(Temporary Service) Rules. She has been allowed to draw annual increments, to contribute to General Provident Fund and other benefits which are given to temporary and officiating employees. She has stated that she has become overaged to compete in any competitive examination or to secure service elsewhere.

3. The applicant's services were terminated by the impugned order dated 20.6.90 stating that the

same shall come into effect on 22.6.90. No notice or pay in lieu of notice was given to her. She has alleged that while terminating her services, the respondents have retained the services of three employees who were junior to her.

4. The respondents have stated in their counter-affidavit that the applicant was appointed under plan scheme purely on ad hoc basis. The Office of the Chief Enforcement Officer is a temporary organisation and is getting extension on year to year basis so also the post. That is why the selection of the post was not made through the Staff Selection Commission as per Govt. of India instructions. They have submitted that the Office of the Chief Enforcement Officer, a separate organisation was opened by the Ministry of Textiles during the year 1986 on temporary basis with the intention to enforce the Handlooms (Reservation of Articles for Production) Act, 1985 under the control of Development Commissioner for Handlooms till this organisation gets permanent status. But Handlooms Reservation Act could not be implemented after November 1987 due to the stay order granted by the Hon'ble Supreme Court on the Act and orders issued thereunder and the department was compelled to take the decision to reduce the existing staff strength and also on economic measure. The staff on deputation is being repatriated to their parent offices. There is no work for Stenographer Grade III in the office and hence the services of the applicant were terminated. The post of Stenographer Grade III has been held in abeyance.

5. The respondents have relied upon the stipulation contained in the appointment order dated 18.6.86 issued to the applicant that the appointment is purely on

ad hoc basis and liable to be terminated any time without notice and without any reasons being assigned.

6. As regards the contention that the juniors of the applicant have been retained in service, the respondents have stated that they are not on the strength of the Office of the Chief Enforcement Officer which is a separate cadre and separate organisation.

7. We have carefully gone through the records of the case and have considered the rival contentions. The stand of the respondents is that the services of the applicant were terminated as there was no work of Stenographer Grade III in their office and that they have not retained any other person as Stenographer Grade III in their office. In our view, the applicant will be entitled to succeed only if she is able to establish that the respondents still need the services of Stenographer III. There is nothing on record to substantiate this. The decisions of the Supreme Court relied upon by the learned counsel of the applicant that if a person continues to serve on ad hoc basis, he deserves to be appointed on regular basis pre-suppose the existence of a vacancy or post in which the employee could be regularised. As there is no vacancy or post in which the applicant could be accommodated or regularised, it will not be appropriate to issue any directions to the respondents in this regard.

8. In the light of the foregoing, the application is disposed of at the admission stage itself with the direction that in the event of any vacancy being available now or arising in future in the post of Stenographer

Grade III in the office of the respondents, the applicant will have prior claim for appointment in preference to persons with lesser length of service and fresh recruits.

There will be no order as to costs.

D.K.Chakravorty
(D.K.CHAKRAVORTY)

MEMBER(A)

28/8/91

23/8/91
(P.K.KARTHA)
VICE CHAIRMAN(J)