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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. Nos.:

Date: 7.12.1990.

1. OA-1574/90, and
2. OA-1600/90

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| 1. Press Workers Union & Anr.) | } Applicants |
| 2. Ms. Simla Devi & Others | |

Versus

Union of India through
Director of Printing, Dte. of Respondents
Printing, New Delhi

For the Applicants Shri D.R. Gupta, Counsel
For the Respondents Smt. Raj Kumari Chopra, Counsel

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. D.K. Chakravorty, 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*

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

As common questions of fact and law are involved in these two applications filed under Section 19 of the Administrative Tribunals Act, 1985, it is proposed to deal with them in a common judgement.

2. The applicants are employed in the Government of India Press, Minto Road, New Delhi in various capacities. Their grievance relates to the allotment of residential accommodation to 12 members of the lady staff who are to be put on duty in the early morning shift or late evening shift. They have challenged the validity of the Office Memorandum

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issued by the Deputy Director (Admn.) on 31.7.1990 in this behalf, the material portion of which reads as follows:-

"(iii) In accordance with the provisions of the Factories Act, lady staff, who are to be put on duty in the early morning shift or late evening shift, have to be provided with residential accommodation near the Press. Hence 12 of the quarters may be allotted to senior-most lady Key Board Operators and before allotment is made, an undertaking should be obtained from them that they will have no objection to putting them on duty in the early morning shift or late evening shift, because the quarters are being allotted to them, to meet the requirements of the Factories Act. If any ladies are to be put on duty in the early morning or late evening shift, only those ladies who have been allotted out of turn quarters near the press, should be put on such duty. Out of turn of quarters to these ladies has been approved by the Ministry of Urban Development. The undertaking from lady Key Board Operators will be obtained by the Manager, Govt. of India Press Photolitho Unit, Minto Road as they are working under him."

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/Board

3. The contention of the applicants is that the impugned Office Memorandum is violative of the provisions of the Rules relating to allotment of Government accommodation to the staff employed in the Government of India Press, which have been notified in pursuance of the provisions of Rule 45 of the Fundamental Rules in 1976.

4. OA-1574/90 was filed in the Tribunal on 6.8.1990 and an ad interim order was passed on that date to the effect that one of the Type II quarters at Mirdard Road, New Delhi, be kept vacant and shall not be allotted to anyone. OA-1600/90 was filed on 7.8.1990. On 8.8.1990,

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an ad interim order was passed directing the respondents not to implement the Office Memorandum dated 31.7.1990. Subsequently, on 31.10.1990, after hearing the learned counsel for both the parties, the interim order passed on 8.8.1990 was modified to the effect that the 12 persons appointed as Key Board Operators in Government of India Press, shall not be given Government accommodation till the case is finally heard and decided.

5. There is a General Pool and a Ladies Pool for allotment of quarters to the staff of the Government of India Press. The applicants have stated that recently 12 ladies have been appointed as Key Board Operators in Government of India Press, Minto Road, New Delhi. According to them, there are 90 Key Board Operators in all consisting of 78 males and 12 ladies. By the impugned order dated 31.7.1990, the respondents have proposed to give accommodation to the recently appointed ladies, overlooking the quotas prescribed and the rules of seniority of the members of staff of the Press. According to them, these ladies have been appointed on the basis of favour and not on merit and they are the close relations of the Director and high officers. It has also been contended that males could be put to night duty and that it is not necessary to put the ladies on such duty. They have averred that as a matter of policy, putting ladies on

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night duty and morning duty should have been avoided.

They have alleged that the impugned O.M. dated 31.7.90 is violative of the provisions of Article 14 of the Constitution.

6. The respondents have stated in their counter-affidavit that the allotment has been made in favour of the 12 ladies in accordance with the provisions of Rule 22 of the relevant rules read with Section 66 of the Factories Act, 1948.

7. We have gone through the records of the case carefully and have considered the rival contentions. There is no material before us to substantiate the allegation made by the applicants that the 12 ladies have been appointed on favour and not on merit. Their appointments have not been challenged in the present proceedings. The names of these lady officials and their relationship with the Director/high officers have not been disclosed in the application. The respondents have also denied the allegations made by the applicants.

8. As to the wisdom of putting the ladies on night duty, it is for the respondents to consider. It will not be appropriate for the Tribunal to interfere in ^{such} matters of policy.

9. The legal contention raised on behalf of the applicants is that Rule 22 of the relevant rules cannot be invoked in the instant case. It has also been contended that Rule 22 is bad to the extent that no guidelines have been laid down for the exercise of power therein.

10. Rule 22 which deals with the power to relax the rules, reads as follows:-

"The Director of Printing may for any reason to be recorded in writing and in consultation with Department of Works & Housing, relax all or any of the powers of these rules in the case of any officer of residence or class of officer or type of residence."

11. Rule 22 is in addition to Rule 24 which deals with the reservation of residence. Rule 24 reads as follows:-

"The Director of Printing may reserve a residence for the incumbent of a post specified in the schedule to these rules for reasons to be recorded in writing."

12. The allotment of quarters to the 12 ladies is not being made pursuant to the provisions of Rule 24. The posts of Key Board Operator do not figure in the schedule to which reference has been made in Rule 24.

13. Therefore, it has to be examined whether the respondents could invoke the power to relax under Rule 22 and give 'out of turn' allotment to the 12 ladies in question.

14. During the arguments, the learned Counsel for both parties have relied upon numerous authorities in support of

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their contentions.*

15. In our opinion, Rule 22 itself lays down the guidelines for the exercise of the power to relax. The guidelines are that the reasons are to be recorded in writing and that the power to relax should be invoked in consultation with the Department of Works & Housing. The said requirements make the Rule reasonable and fetter the power of discretion vested in the Director. The respondents have also obtained the relevant permission from the State Government under Section 66 (1) (b) of the Factories Act, 1948 for the employment of women workers in the Government of India Press at Minto Road between 5.00 A.M. to 10.00 P.M. (vide Annexure II, to the counter-affidavit, p.28 of the paperback).

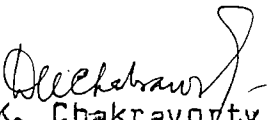
16. Article 15(3) of the Constitution presupposes that women are a disadvantaged class and special provision regarding them could be made validly by the State. In a case where the posts of Enquiry and Reservation Clerks in the Railways in the four Metropolitan cities of Delhi, Bombay, Calcutta and Madras were reserved for women only, the Delhi High Court has upheld such reservations (vide Charan Singh Vs. Union of India, 1979 (1) SLR 553).

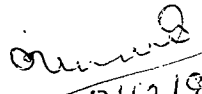
*Cases relied upon by the learned counsel for the Applicant: 1980 (2) SLR 10; 1975 SLR 409; 1980(3) SLR 301; 1974(1) SLR 536; and 1979(3) SLR 116.

Cases relied upon by the learned counsel for the Respondents: 1990 (1) SLJ 625; 1990 (2) SLJ 17; 1987 (3) SCC 1383; and 1990 (2) SLJ 42.

17. In our opinion, there is no legal or constitutional infirmity in the impugned Office Memorandum dated 31.7.1990. We, therefore, do not see any merit in these applications. OA-1574/90 and OA-1600/90 are accordingly dismissed at the admission stage itself. The interim orders passed in both cases stand vacated with immediate effect. There will be no order as to costs.

Let a copy of the order be placed in both the case files.


(D.K. Chakravorty)
Adm. Member 7/12/90


7/12/90
(P.K. Kartha)
Vice-Chairman(Judl.)