

Central Administrative Tribunal
Principal Bench

OA No.1696/90

New Delhi this the 18th Day of October, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Smt. Lakshmi Swaminathan, Member (J)

Smt. Vidya Bai,
Wife of Late Sh. Rajinder Singh,
R/o D-14C, Raghubir Nagar,
New Delhi. ...Applicant

(By Advocate Sh. B.S. Charya)

Versus

1. Delhi Administration,
5, Alipur Road, Delhi
(through its Chief Secretary)
2. The Directorate of Publication,
Customs & Central Excise,
Gagandip Building,
Rajendra Place,
New Delhi through
its Director General ...Respondents

(By Advocate Sh. M.L. Verma)

ORDER(ORAL)

Mr. N.V. Krishnan:-

Heard. This matter has come up on many occasions, as we wanted a definite information from the respondents as to the basis of the impugned order.

2. The facts are simple. The applicant is a widow of Sh. Rajinder Singh, who was killed in the riots of 1984. Admittedly, her case was sent by the A.D.M. (R&R) for compassionate employ^{a ment}ed, as she was a widow of a victim of the 1984 riots.

3. The applicant was offered appointment as a Farash by the letter dated 28.9.88 (Annexure P-4) by the second respondent, the Directorate of Publication Customs and Central Excise. On acceptance, she reported for duty on 28.9.88.

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4. Sometime thereafter, the applicant applied for maternity leave on the basis of the certificate dated 28.1.89, produced by the respondents in connection with the delivery. It was certified that she required leave from 6.1.89 to 6.4.89.

5. It is this circumstance that started the respondents thinking about the applicant's case. For, it became evident that the applicant must have got married and that as a matter of fact, on the date the offer of appointment was given or it was accepted she was already married for the second time. The medical certificate produced with the reply identified the applicant as "Vidya Bai, wife of Milap Singh." It is also noticed that the word "Rajinder" was initially written which has been scored off. Thus, it became clear that the applicant was married to Milap Singh.

6. On this ground the respondents passed the following order on 27.2.89 (Annexure R-1):-

"Whereas Smt. Vidya Bai Widow of Shri Rajender Singh, whose case was sent by the Additional District Magistrate (R&R) R.No.148, Tis Hazari, Delhi was appointed as Farash on 28.9.1988 in the Directorate of Publications (Customs and Central Excise) vide this Directorate letter F.NO.DP/Estt/25/87 dated 28.9.1988 on the ground of being the widow of Shri Rajender Singh a victim of 1984 riots:

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i) And Whereas the aforesaid Smt. Vidya Bai submitted a Medical application, for leave on maternity ground alongwith a Medical Certificate bearing No.135 dated 28.1.89 of Dr. R.M. Sharma, Physician & Surgeon, Sultanpur Mazra, Regd. No. 30088, recommending leave from 6.1.89 to 6.4.89 and in the application it is mentioned that, on 8.1.1989, Smt. Vidya Bai delivered a male child (photo copies of the application and the certificates are enclosed.)

ii) And Whereas in the R.T.I. affixed on the M.C. the name of Vidya Bai is given as Vidya Vati while against the col. name, it is given as Vidya Bai and against the col. showing wife of, the name of Rajender Singh formerly declared by her as the name of her deceased husband has been cut and in place it is written Milap Singh Gyani.

Now therefore it is found that the appointment of Smt. Vidya Bai for which only a Widow of the 1984 riot victim was eligible does not apply in the case of Smt. Vidya Bai and accordingly on the date of her appointment in the Directorate on 28.9.1989 she was not a widow and thus not eligible for the appointment. The appointment is thus illegal ab initio.

The services of Smt. Vidya Bai are hereby terminated from the date 28.9.1988.

Considering the overall circumstances and on humanitarian consideration, it is however ordered that for the number of days she has worked in this Directorate she will be deemed to have worked as labour on daily wage basis."

Aggrieved by this order, this O.A. has been filed to quash the aforesaid order and to reinstate the applicant with full pay and allowances for the intervening period.

7. When this matter came up for final hearing, we wanted to know from the learned counsel for the respondents whether the Government had formulated any scheme or had issued any instructions for appointing persons like the applicant who were the near relatives of the victims of the 1984 riots. Though the learned counsel tried his best, he has not been able to produce for

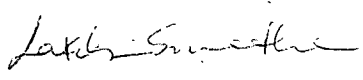
our perusal any such scheme. At one point of time he submitted that the scheme applicable to compassionate appointments of sons and daughters etc. of deceased Govt. servants would apply in such a case. Even for this submission he was unable to produce any order of the Govt. laying down such guidelines.

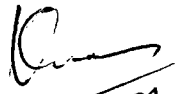
8. The crux of the arguments of the learned counsel for the respondents is that the applicant had not given full particulars about herself and had concealed the fact of her remarriage when the offer of appointment was given to her. He points out that the Annexure P-3 letter which was issued to her for obtaining the necessary attestation form for verification of antecedents and for the purpose of medical examination described the applicant as "Smt. Vidya Bai, wife of Sh. Rajinder Singh." (Annexure P-3). He, therefore, submits that the applicant had a specific status on this date and if the applicant had already remarried it was the duty of the applicant to inform the authority concerned about such re-marriage. We wanted to know from the learned counsel for the respondents whether any prescribed application was to be given by such persons to seek employment on the aforesaid consideration viz. that their near relatives of victims of 1984 riots. The learned counsel stated that no such application form was prescribed.

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9. The argument thus is that (i) the compassionate appointment was to be given only to widows of persons killed in the riots, (ii) the appointment would not be given if, before the date of such appointment the widow remarried, and (iii) therefore the applicant falsely accepted the appointment as a widow of Rajinder Singh when she had already married Milap Singh. We have already found that the respondents have not produced any authority for the arguments at ~~(i)~~^u and (ii) above. Therefore, the third argument has no leg to stand on. In an case, the respondents have no case that though asked before appointment, the applicant informed them that she had not ~~not~~^u remarried. In our view, the description of the applicant as widow of Rajinder Singh is not incorrect because she was the widow of the deceased. She got the employment only on that ground on the basis of the A.D.M's certificate.

10. As the respondents have not produced any order/instruction to the effect that no employment shall be given to widows of the 1984 riot victims if they remarry before such employment the Annexure P-1 order is unauthorised and is accordingly set aside. The respondents are directed to take back the applicant on duty with all back wages. The respondents are directed to comply with this order within a period of three months from the date of receipt of this order. No costs.


(Smt. Lakshmi Swaminathan)
Member(J)


18/7/84
(N.V. Krishnan)
Vice-Chairman(A)

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