

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 488/90  
T.A. No.

199

DATE OF DECISION 11.01.1991.

Smt. Angrezo Sharma

Petitioner

Sh. M. Moshain Israili

Advocate for the Petitioner(s)

Versus

Delhi Admn. through Chief

Respondent

Engineer, Flood & Irrigation Department & Another

Mrs. Gynish Ahlawat

Advocate for the Respondent(s)

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

The 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*
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*

### JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K. Chakravorty, Administrative Member)

The grievance of the applicant, who has worked as an LDC-cum-Hindi typist in the Flood and Irrigation Department under the Delhi Administration relates to termination of her services by the respondents. She has prayed that the respondents be directed to reinstate her in the post of LDC-cum-typist with retrospective effect, that she be paid her dues for the intervening period and that her services be regularised.

2. The pleadings in the case are complete. The application has not been admitted. We feel that the application could be disposed of at the admission stage itself and we proceed to do so.

⑤  
N/A

3. The applicant had filed Writ Petition (Civil) No.36/1990 in the Supreme Court seeking the same reliefs, as prayed for in the present application.

On 22.1.1990, the Supreme Court passed an order whereby the Writ Petition was dismissed as withdrawn and the petitioner was given the opportunity to approach the High Court by an application under Article 226 of the Constitution. That is how the present application came to be filed in this Tribunal on 12th March, 1990.

4. The case of the applicant in brief is as follows. She has passed matriculation examination and was appointed as LDC-cum-typist in the office of the respondents in 1987. According to her, she has worked for 255 days at a stretch as under:-

|                    |   |          |
|--------------------|---|----------|
| "2.3.87 to 25.3.87 | = | 25 days  |
| 13.4.87 to 30.4.87 | = | 18 days  |
| 1.5.87 to 31.7.87  | = | 61 days  |
| 2.11.87 to 31.3.88 | = | 151 days |

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Total = 255 days

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5. The applicant has also passed National Trade Certificate in Hindi Typing from the National Council for vocational training. She was appointed after a written test and interview. No appointment letter was issued to her, but she was appointed on daily wages basis. As she was the only earning member in the family, she accepted the job on the terms offered by the respondents.

(6)

6. Apart from the above mentioned period, she has also worked for about 39 days in the month of June-July and August, 1987. There is a gap of about 3 months from 1st August to 3th November, 1987, during which period the applicant was on her family way and she had applied for maternity leave. Leave was not granted to her as she was working on daily wages basis. After giving birth to a child on 17th August, 1987, she resumed duty on 9.11.1987 and continued to work upto 31.3.1988.

7. She has contended that as she has worked for more than 240 days in a year, she is entitled to the benefit of the orders passed by the Supreme Court in various cases relating to the casual labourers who had approached the Supreme Court in several Writ Petitions.

8. The applicant has relied upon the orders passed by the Supreme Court in the following cases:-

"(1) Orders dated 31.10.1988 and 10.11.88 in Writ Petition (Civil) No.253 of 1988 - Prakash Chand & Others Vs. Delhi Administration and Others. In this case which also related to the Flood and Irrigation Department of the Delhi Administration, the Supreme Court had directed the respondents to frame a scheme for the regularisation of the services of all petitioners and persons similarly situated who had been in service for more than one year. Until the scheme is so framed and the question of regularisation of the petitioners was considered in the light of the scheme and final orders were passed thereon by the respondents, their services shall not be terminated until the question of regularisation was so determined. The Supreme Court further directed that the petitioners shall be paid with effect from 1.11.1988 the minimum salary payable to a person regularly appointed and doing the same kind of work in the Department.

(7) ~~6~~

(2) Order dated 15.11.1989 in Writ Petition (Civil) No.779/1989 - S.N. Dewidi and Others Vs. Delhi Administration & Others to the same effect.

(3) Order dated 8.1.1990 in Writ Petition (Civil) No.752 and 830 of 1989 - Muni Ram & Others Vs. Delhi Administration & Others to the same effect".

4. The applicant has stated that she could not become a party to the Writ Petition mentioned above, but she claims the benefit of the orders passed by the Supreme Court as she was similiary situated. She has challenged the oral termination of her services with effect from 1.9.1989 as violative of the directions contained in the aforesaid orders passed by the Supreme Court.

5. The respondents have stated in their counter-affidavit that the applicant was appointed as Work Assistant/Typist on purely temporary and day-to-day basis on daily wages against muster roll and that she has not completed more than one year and consequently she is not entitled to the benefit of the judgments of the Supreme Court, relied upon by her.

6. We have gone through the records of the case carefully and have considered the rival contentions. It is seen that there has been some artificial breaks in her service which appears to have been made

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arbitrary and with a view to prevent her developing

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any right in the post held by her. In our opinion, the applicant is also similarly situated as petitioners in the various Writ Petitions disposed of by the Supreme Court referred to earlier. We, therefore, hold that the termination of her services by an oral order is not legally sustainable. We, therefore, direct the respondents to reinstate her in service. In the facts and circumstances of the case, we do not direct payment of back wages to her. The respondents shall also consider the case of regularisation of the applicant in accordance with the scheme prepared by them pursuant to the directions given by the Supreme Court.

7. The application is disposed of with the above directions. There will be no order as to costs.

*D. K. Chakravorty*  
(D.K. CHAKRAVORTY)  
MEMBER (A) 11/1/91

*P. K. Kartha*  
11/1/91  
(P.K. KARTHA)  
VICE CHAIRMAN (J)