

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.Nos. (1) OA 1301/91
(2) OA 1302/91

Date of decision: 09.08.1991.

(1) OA 1301/91

Shri Arvind Kumar Gupta ... Applicant

Vs.

Union of India & Another ... Respondents

(2) OA 1302/91

Kr. Seema Rani ... Applicant

Vs.

Union of India & Another ... Respondents

For the Applicants in (1) & (2) .. Shri M.K. Gupta,
Counsel

For the Respondents in (1) & (2) .. Shri P.H.
Ramchandani,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

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

The applicants who are working as daily wage LDC-cum-Typists in the office of the respondents have prayed for restraining the respondents from discontinuing their services with effect from 29.5.1991 and for regularising their services with all consequential benefits. As common questions of law and fact are involved, it is proposed to deal with them in a common judgment.

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2. Applicant No.1 was appointed as Typist(LDC) on daily wages with effect from 31.7.1990 while applicant No.2 was so appointed with effect from 16.7.1990. The respondents, vide their order dated 29.5.1991, decided to discontinue their services and they were sought to be replaced by fresh recruits through Employment Exchange. They have challenged this action as illegal, arbitrary and unjust.

3. The applications were filed in the Tribunal on 3.6.1991. On 3.6.1991, the Tribunal passed an interim order directing the respondents not to terminate the services of the applicant and engage newly recruited daily wage LDC-cum-Typists. The interim order has been continued till 1.8.1991 when the case was finally heard.

4. The case of the respondents is that there are no regular posts of LDC-cum-Typists in the office of the respondents to which the applicants can look forward ^{or} ~~for~~ to regularisation. The office of the respondents is a new office and in the absence of sanctioned posts, the work is managed by five LDC-cum-Typists. They have stated that the statement of the applicants that they have worked to the satisfaction of their officers is not correct. There had been adverse reports against them and that they have not been working to the satisfaction of the officers. In spite of their unsatisfactory work, they were given further opportunities to improve their work and conduct before taking

any steps to terminate their services. In this context, they have annexed copies of the notes recorded on 23.11.1990 and 19.4.1991 by the senior officers under whom they have worked (vide Annexures R-I and R-II to the counter-affidavit). These notes indicate that the overall performance of the applicants have not been upto the mark.

5. We have carefully gone through the records of the case and have heard the learned counsel of both parties. The respondents have stated that despite repeated verbal advice, the applicants have not shown improvement in their work and conduct. The Supreme Court has observed in Dr. Mrs. Sumati P. Shere, 1989 SCC(L&S) 471 that in the relationship of master and servant there is a moral obligation to act fairly. An informal, if not formal give and take, on the assessment of work of the employee should be there. The employee should be made aware of the defect in his work and deficiency in his performance. This appears to have been done in the instant case. In a case of general unsuitability and unsatisfactory work and conduct, as in the instant case, the termination of services cannot be faulted on legal and constitutional grounds.

6. In the light of the above, the applicants are not entitled to the reliefs sought by them. We, however, hope that the respondents will give to the applicants one more chance to prove their worth before dispensing with their

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services. The respondents shall not terminate their services for a further period during which their overall performance and conduct should be watched and, thereafter, they may take appropriate action ~~thereafter~~ in the light of their assessment. The interim order passed on 3.6.1991 will continue to be in force till 1.10.1991 and will stand vacated after that date. There will be no order as to costs.

Let a copy of this order be placed in OA 1301/91 and OA 1302/91.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 9/8/91
MEMBER (A)

P.K. Kartha
9/8/91
(P.K. KARTHA)
VICE CHAIRMAN (J)