

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2594/91

Date of Decision:04.03.92.

MP 253/92

Smt. Bhauri Devi

....Applicant

Vs.

Development Commissioner,Respondents

Delhi & Another

For the Applicant

....Shri L.C. Goel,

Counsel

For the Respondents

....Shri M.C. Garg,

Counsel

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 Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT(ORAL.)

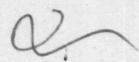
(of the Bench delivered by Hon'ble Shri P.K.

Kartha, Vice Chairman(J))

The applicant has worked as a casual labourer in the office of the respondents since 1985.

She is aggrieved by the impugned order of termination of her services dated 25.06.91. She has prayed for her reinstatement with all consequential benefits.

2. We have gone through the records of the case and have heard the learned counsel of both parties. The admitted factual position is that the applicant was due for regularisation pursuant to a scheme prepared by the respondents in compliance with the directions given by the Supreme Court in a Writ Petition filed by Naider against the Delhi Administration. The applicant qualified in the trade test and interview but she was declared medically unfit by the Staff Surgeon concerned. In view of this, her services were terminated.



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3. The applicant thereafter produced two medical certificates in support of her version that she is fit for Government service. According to the respondents, the certificates produced by her are not in proper form as envisaged in Rule SR 4(2)(c). According to the said Rule, "the certificate will not be taken into consideration unless it contains a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for service by a Medical Board, Civil Surgeon or other Medical Officer". As both the certificates furnished by the applicant were silent about the disclosure of the fact of the earlier medical examination, they were not taken into account by the respondents.

4. We agree that, strictly speaking, the stand taken by the respondents cannot be faulted. The certificates produced by the applicant are not in proper form, as envisaged in the Rules. However, we have to take into account that the applicant has worked in the office of the respondents for several years and they have no complaint about her work and conduct. We are, therefore, of the opinion that the respondents should give a further opportunity to the applicant to produce medical certificates in the proper form. In the interest of justice and fair play, we direct the respondents to reinstate the

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applicant in service as casual labourer within a period of one month from the date of receipt of this order. They shall give to the applicant an opportunity to produce the requisite medical certificates within a period of one month from the date of reinstatement and refer the case to the Medical Appellate Board for consideration. In case the Medical Appellate Board finds her fit for appointment, she should be regularised in a suitable post. In the facts and circumstances, the respondents are directed to pay back wages to the applicant from the date of termination of her service to the date of reinstatement within a period of 2 months from the date of communication of this order. The application is disposed of on the above lines.

There will be no order as to costs.

Duckenf-
(D.K. CHAKRAVORTY)
MEMBER (A)
04.03.1992

Kartha
(P.K. KARTHA)
VICE CHAIRMAN (J)
04.03.1992

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