

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA No, 3107/91

...

Date of decision: 27-11-92

Sh. Bal Kishan & Others

... Applicant

Versus

Union of India,

Delhi Administration ..

Respondents

For the applicant ..

Sh. V.P. Sharma, Counsel.

For the respondents..

Mrs. Avnish Ahlawat,
Counsel.

CORAM

Hon'ble Sh. P.K.Kartha, Vice Chairman (J)

Hon'ble Sh. B.N.Dhoudiyal, Member (A)

JUDGEMENT

(Of the Bench delivered by Hon'ble Sh. B.N.

Dhoudiyal, Member (A)

The 7 applicants in this OA are aggrieved by the impugned order dated 17.12.91 issued by the Directorate of Social Welfare, Delhi Administration, whereby their services have been discontinued.

2. The names of the applicants were registered in the Local Employment Exchange and ^{they} were duly selected and appointed as Chowkidars/Caretakers after the prescribed medical examination. Applicant No. 1 & 2 were appointed as Chowkidars on 29.1.90 and applicants No. 3 to 7 as Caretakers on different dates in Jan. 1990-91.

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However, the appointment was ordered as ad hoc basis. They were working against regular vacancies of Chowkidars/ Caretakers but their services were sought to be terminated by the impugned order dated 17.12.91. They have prayed for directions to the respondents to consider them for regularisation and quashing of the impugned order dated 17.12.91.

3. On 24.12.91, this Tribunal has passed an interim order directing the respondents to allow the applicants to continue in their respective posts of Caretakers/ Chowkidars. This order has been continued till date.

4. The respondents have stated that these applicants were appointed without calling their names from the Employment Exchange and ~~-----~~ pending regular appointments after calling names from the Employment Exchange. Subsequently, the names were called from the Employment Exchange and the applicants were also called for interview. However, no person was selected as it was felt that since ^{there} ~~vacancies~~ were meant for female institutes, it was better that female candidates be called for those appointments. Thus, the initial appointments of the applicants were made without constituting any Staff Selection Board and it was clearly mentioned in the appointment letters that these appointments are purely on adhoc and ~~emergent~~ basis till further orders or till the posts are filled on regular basis whichever is earlier. It was also mentioned that their services can be terminated at any time without giving any notice. ^{6v}

5. We have gone through the facts of the case and heard the 1d. counsel for both parties. The applicants have relied on the number of rulings[@] by the Supreme Court and by various Benches of this Tribunal and we have duly considered the same. While Government can make short term appointments, it would not be proper to replace one set of temporarily employed people by another set. It will not be permissible in law to reserve all the posts only to ladies in the absence of any provision in the Recruitment Rules. The respondents have stated that they had considered the applicants also while making selection for the regular vacancies but have not taken action for regularisation as in the meanwhile it was decided to reserve the posts for ladies only. It is not clear whether the required amendment in the Recruitment Rules have been made so far or not. The respondents have also not stated that the work and conduct of the applicants were not satisfactory.

6. In the facts and circumstances of the case, the application is disposed of with the following directions :

(1) The respondents are directed to take a decision on amendment of the Recruitment Rules within a period of 3 months, failing which they should give an opportunity to the applicants alongwith other candidates sponsored by the Employment Exchange, to be considered for the appointment against regular posts;

(2) Till such regular appointments are made, the applicants shall be retained in their respective posts of Chowkidars/Caretakers.

@1. May Oommen Vs. Manager, M.G.M. High School
(AIR 1987 Supreme Court 1163- 1987 LAB. I.C.891)

2. Rattanlal 7 Ors. Vs. State of Haryana & Ors.
(AIR 1987 Supreme Court 488- 1986 Lab. I.C. 1599)

3. State of Gujrat Vs. S. Tripathy (AIR 1987 SC 479- 1986 Lab. I.C. 1658).

4. Dr.(Mrs.) Sangeeta Narang & Ors. Vs. Delhi Admn. & Ors.
(ATR 1988 (1) C.A.T. 556).

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(3) Even after regular selections have been made,
the names of the ^{remaining} applicants shall be kept in a Live
Register so that they may be absorbed in future temporary/
regular vacancies.

There will be no order as to costs.

B. N. Dholiyal
(B.N. Dholiyal) 27/1/92

Member (A)

27/1/92

(P.K. Kartha)

Vice Chairman (J)

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