

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

DA.No.385/91

Date of Decision: 25.09.1992

Mrs. Harriet Massey

Applicant

Ms. Kailash Gulani

Counsel for the applicant

vs.

Principal and Medical  
Superintendent, Lady  
Hardinge Medical College  
and Smt Sucheta Kriplani  
Hospital, New Delhi

Respondents

Shri P.P. Khurana

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

- (1) Whether Reporters of local papers  
may be allowed to see the Judgement? *Y*
- (2) To be referred to the Reporters or not? *Y*

JUDGEMENT

(of the Bench delivered by  
Hon'ble Member Shri B.N. Dhoundiyal)

Smt. Harriet Massey has filed this application

aggrieved by order dated 8.1.91, terminating her

services as L.D.C. in the Lady Hardinge Medical College,

New Delhi. The applicant was appointed on 23.1.85 as *an* *sw*

L.D.C. on compassionate grounds, after the demise of her

husband, who was working as a Laboratory Assistant. She

had developed *an* Early Rheumotoid Arthritis mainly involving

the smaller joints of both hands which has incapa-

citated her to perform finer movements of the hands

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(Annexure VI) like Typing and Knitting. She was therefore given exemption from the Typing Test by the Ministry of Health and Family Welfare. She had been working regularly for over 5 years, when the notice of termination was issued to her. By this time, she had already attained 45 years of age. She has contended that having been appointed on compassionate ground against a substantive vacancy and having worked for more than 5 years, her services could not have been terminated under Rule 5(1) of the CCS (Temporary Services) Rules, 1965 (Uma Shankar Sharma Versus Union of India and Others, 1986 (3) SCC 202).

2. These facts are admitted by the respondents who have stated that while the case of her appointment on permanent basis was under consideration, a complaint was received that she had submitted a fake certificate of educational qualification at the time of her appointment. It was revealed that Government Girls Higher Secondary School at Sector-12, R.K. Puram was not even in existence in 1960-61, as had been mentioned in the fake certificate. A lenient view was taken considering that she was a widow and had two minor children to support, and she was allowed two years time to pass the matriculation examination through *6w*

recognised Board/University vide memorandum dated 21.10.88. She could not pass this examination even upto this date. Her services had therefore, to be terminated vide order dated 10.1.91.

3. An interim order was passed by this Tribunal on 12.2.91, directing the respondents not to terminate the services of the applicant in pursuance of the impugned notice dated 10.1.91. In compliance thereof, the termination order was withdrawn by the respondents on 25.2.91.

4. We have gone through the records of the case and heard the learned counsel for both parties. It has been argued that permanent appointment can be given to the applicant only on the basis of the recommendation of the DPC which has to consider among other factors whether she has the minimum educational qualification, or not? In this case, the applicant did not possess the matriculation qualification and could not acquire it during the period of two years allowed to her under the terms of Department of Personnel and Training OM dated 30.6.87, (Appendix-2 page-253 of Swamy's Pension Compilation).

*Br.*

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5. The respondents have mentioned that though the applicant has submitted a copy of the Examination Hall Ticket showing that she has appeared in the Xth Class Examination in November, 1990, so far no certificate of having passed the examination has been submitted.

6. The learned counsel for the applicant stated that the applicant has already cleared the examination in two subjects and she can clear the remaining subjects also, if given sufficient time.

7. The respondents have already granted time of two years to the applicant for passing matriculation examination in accordance with OM dated 30.6.87, issued by the Department of Personnel and Training. She has partially cleared the matriculation examination. We have to consider the fact that the applicant has already worked for over 5 years as L.D.C. and as the applicant has reached an advanced age of 45 years, she has by now become ineligible to appear in any recruitment examination. She has also to bear the burden of raising two minor children. The termination of the services of the applicant

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at this stage will defeat the very purpose of having given her employment on compassionate grounds on the death of her husband. We, therefore, dispose of the application with the following orders and directions:-

1. The impugned order dated 8.1.91, terminating the services of the applicant is hereby set aside and quashed. The respondents are directed to allow the applicant to continue in service as L.D.C.
2. The applicant shall be granted time to acquire the required educational qualification within a further period of two years. In case, she qualifies in the remaining subjects during this period, she should be regularised in the post of L.D.C. If not, her service should not be terminated and she should be offered appointment to a post commensurate to her qualifications.
3. The interim order dated 12.2.91 is hereby made absolute with the aforesaid observations.
4. There will be no order as to costs.

B.N. DHOUDIYAL  
(B.N. DHOUDIYAL) 1579192  
MEMBER (A)

25/9/92  
(P.K. KARTHA)  
VICE CHAIRMAN (J)