

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 1841/1992

Date of decision: 22.07.1993

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Smt. S.K. Mani

...Petitioner

Versus

Union of India & Others

...Respondents

For the Petitioner

...Shri B.S. Mainee, Counsel

For the Respondents

...Shri Romesh Gautam, Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. To be referred to the Reporters or not?

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

The order dated 25.06.1991 passed by the Divisional Medical Officer dismissing the petitioner from service is being impugned in the present application. On 16.06.1992, the appeal preferred by the petitioner was dismissed by Senior Divisional Medical Officer. The two orders are being impugned in the present application.

2. One of the contentions raised in support of this application is that the Divisional Medical Officer had no jurisdiction to pass the impugned order. It is pointed out that admittedly on 6.11.1979, the petitioner was appointed as a Nurse by the General Manager and admittedly on 29.04.1988, the petitioner was promoted as a Nursing Sister by the Chief Hospital Superintendent. Both the afore-said officers are undoubtedly officers superior in rank to the Divisional Medical Officer.

3. On 8.7.1993 we passed an order to the effect that the point to be examined in this case is whether the Divisional Medical Officer who passed the order dismissing the petitioner from service is competent to do so or not. Counsel for the respondents submitted that

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the powers have been delegated to the DMO. He was, therefore, directed to produce the relevant records on the next date of hearing.

4) We directed ^{the same} ~~to be~~ posted for hearing on 19.07.93.

4. On 19.07.93, counsel for the respondents prayed that the matter should be heard on 22.07.93. We directed the counsel to produce the record on the said date. We also made it clear that no further time will be given to the respondents. The case has been called out in the revised list. We have heard Shri Mainee, learned counsel for the applicant. While we were dictating the order, Shri Romesh Gautam, learned counsel for the respondents entered the court room. We asked him to produce the record. He states that he has not been able to get the record inspite of his request. Under the circumstances, we have no option but to proceed with the judgment.

5. On the material on record, we are satisfied that the Divisional Medical Officer had no jurisdiction to pass the impugned order. Since the order of dismissal was void, the defect could not be cured if the appellate authority upheld the same.

6. In the result, this application is allowed. The orders dated 25.06.1991 and 16.06.1992 passed by the punishing authority and the appellate authority are quashed. The petitioner shall be reinstated in service and given her entire back wages. It goes without saying that the petitioner will have to satisfy the authority concerned that she was not employed gainfully elsewhere between the period when the order of dismissal was passed and the order of reinstatement is passed.

7. With these directions, this application is disposed of finally but without any order as to costs.

B.N. Dhaoniyal
(B.N. DHAONDIYAL)
MEMBER (A)
22.07.1993

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN
22.07.1993