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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2103/92 .. Date of decision: 24.02.93
Miss Kiran Devi .. Applicant
Versus
Union of India & Ors. .. Respondents

For the applicant .. Sh. A.K. Bhardwaj, Counsel.
For the respondents .. Sh. V.S.R. Krishna, Proxy
Counsel for Sh. M.L. Verma,
Counsel.

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Hon^oble Sh. P.K. Kartha, Vice Chairman (J)
Hon^oble Sh. B.N. Dhoundiyal, Member (A)

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

J U D G E M E N T

(Of the Bench delivered by Hon^oble Sh. B.N.
Dhoundiyal, Member(A))

This O.A. has been filed by Miss Kiran Devi, challenging the impugned verbal order dated 16.12.89 whereby her services as casual Civilian Switch Board Operator (CSBO) were terminated on that date.

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2. The applicant was appointed as a casual Civilian Switch Board Operator under Officer Commanding Meerut Sub Area, Signal Company, Meerut w.e.f. 08.02.89. She was sponsored through the Employment Exchange and duly selected by a Selection Board. The appointment letter dated 8.2.89 mentioned that the initial appointment was only for a period of 60 days. However, she was asked to continue to work without any break, though in the service record, the respondents have shown technical breaks after every spell of 60 days. She has worked for 240 days between 8.2.1989 and 16.12.1989. On 25.6.89, she was verbally told that her services has been terminated. During the period of her service and soon after her termination, several fresh candidates with no experience and no technical qualifications have been recruited. The following reliefs have been prayed for :-

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- (a) That the Hon^oble Tribunal would be pleased to set aside and quash the order of termination of her services, verbally on 16.12.1989 in furtherance of the appointment order dated 27.04.1989.
 - (b) That their eminent Lordships of Hon^oble Tribunal would be pleased be command the respondents to re-instate the applicant as Civilian Switch Board operator, with all consequential benefits in the grade of Rs. 950-1500.
 - (c) That the application may please be allowed with the cost of the litigation.
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(d) That any other order which their eminent Lordships of Hon^oble Tribunal deem fit and proper in the existing circumstances of the case may please be passed. "

3. The respondents have stated that the applicant was never appointed on regular basis and only short term appointments as a stop-gap arrangement on contractual basis were given to her. In all, she has worked for 3 spells in 60 days each and was never employed after 16.12.89. For each spell, fresh sanction of GOC-in-Charge Central Command was obtained for the specific period of her employment and conditions of her appointment were clearly mentioned in the appointment letters. She was never confirmed or promised a permanent service for which a different procedure is followed. Her services were terminated after giving her sufficient notice vide letter dated 15.11.89.

4. We have gone through the records of the case and heard the learned counsel for both parties. The issues raised in the present application are similar to those raised in O.A. No. 1983/90 which was decided on 25.10.91 by a Bench of this Tribunal in which both of us were parties. In a catena of judgements, it has been held that technical breaks given to casual labourers for a limited purpose should be disregarded. A similar view has been taken by Principal Bench of this Tribunal in case of Satya Pal Singh Vs. Union

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of India in O.A. No. 707/89 decided on 16.8.90. In that case also the applicant's services as casual Switch Board Operator had been terminated by the respondents while outsiders had been engaged. In that case also the respondents had not denied that the applicant had worked for over 300 days as Switch Board Operator. The Bench had made the following observations :-

" If the services of an employee are terminated arbitrarily, and not on the ground of unsuitability, unsatisfactory conduct or the like, which would put him in a class apart from his juniors in the same service, a question of unfair discrimination may arise, notwithstanding the fact that in terminating his services, the appointing authority was purporting to act in accordance with the terms of appointment (vide General Manager, Government Branch Press and Another Vs. O.B. Balliappa, 1979 SCC (L&S) 30). We see no merit or justification for convening the meetings of Selection Board for engaging casual labourers once a Selection Board has found a candidate suitable for engagement. This may give rise to the charge of arbitrariness and unfairness. "

5. We reiterate the same view. The termination of the services of the applicant while providing for engagement of outsiders is not legally sustainable and is violative of the provisions of Articles 14 and 16 of the Constitution.

6. In view of the facts and circumstances of the case, we hold that the applicant is entitled to succeed and the application is disposed of with the following directions:

- (i) The impugned verbal order of termination dated 16.12.89 is hereby set aside and quashed;
- (ii) The respondents are directed to reinstate the applicant in service as Switch Board Operator expeditiously and preferably within a period of 3 months from the date of communication of this order.
- (iii) We do not, however, direct payment of backwages to her.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 24/2/83
Member (A)

P.K. Kartha
(P.K. Kartha) 24/2/83
Vice Chairman(J)