

**Central Administrative Tribunal
Jammu Bench, Jammu**



O.A. No.485/2020

Monday, this the 1st day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Nisha Sharma, age 35 years,
d/o sh. Gopal Dass Sharma,
r/o H. NO. 228/1, Rajpura Shakti Nagar, Jammu

..Applicant

(Mr. Rakesh Sharma, Advocate)

VERSUS

1. Union Territory of Jammu and Kashmir,
Through Commissioner/Secretary to Govt.,
PHE, I and FC Department,
Civil Secretariat, Jammu/Srinagar.
2. Chief Engineer,
Public Health Engineering Department,
BC Road, Jammu.
3. Superintending Engineer,
PHE (M) Urban Circle, Jammu
Executive Engineer,
PHE, Division -II, Jammu.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was engaged as Lab chemist on honorarium basis in the Public Health Department of Jammu and Kashmir, through order dated 09.04.2013 under a scheme, aided by the Government of India. It is stated that the Commissioner/



Secretary of Jal Shakti Department, Jammu & Kashmir visited the Boria Filtration Plant on 12.03.2020 and that he noticed that the applicant and certain other employees were not present at that time. He is said to have directed the Superintendent Engineer of the Department to disengage the applicant and other employees, and in compliance of that, an order dated 20.03.2020 is said to have been passed and since then, the applicant is not permitted to discharge the duties. The applicant submitted certain representation ventilating her grievance. Dealing with the same, the Executive Engineer, Jal Shakti City Division, the 4th respondent herein, passed an order dated 13.07.2020, stating that she has been disengaged, through order dated 20.03.2020 and that no further correspondence would be entertained. This O.A. is filed challenging the action of the respondents in disengaging the applicant from service and the order dated 13.07.2020.

2. The applicant contends that the so-called visit was at a time with the corona was at its peak and without even calling for an explanation or taking note of the reasons, she has been discontinued from service.

3. The respondents filed a counter affidavit. According to them, the engagement of the applicant was only on honorarium basis and since she was found to be absent from duty when the Commissioner/Secretary, Jal Shakti Department made a visit, the applicant and others were discontinued.

4. The applicant filed a rejoinder stating that she was not served with an order dated 20.03.2020.

5. We heard Mr. Rakesh Sharma, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, in detail and perused the records.

6. It is not in dispute that the applicant was engaged as Lab Chemist in the respondent-organization way back in the year 2013. Whatever be the nature of emoluments or conditions of service, she continued in the same position for about 7 years. The applicant was not served with the notice, much less the order of termination. The factum of her having being disengaged was mentioned in the communication dated 13.07.2020. The applicant has procured a copy of the order dated 20.03.2020 thereafter. For all practical purposes, the disengagement of the applicant is on disciplinary grounds. Even if her appointment is on temporary basis, such termination can take place only after issuance of notice and giving an opportunity to her, to explain the allegations against her. Since that has not taken place, the action of respondents in disengaging the applicant cannot be countenance in law.

7. We, therefore, allow the O.A. and set aside the order of termination dated 20.03.2020. The respondents shall forthwith take the applicant back into service, on same terms. We, however, leave it open to them, to issue notice, if any misconduct



or lapse on the part of the applicant is noticed. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 1, 2021

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