

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Transfer Application No. 253 of 1986

Smt. Chandrawati . . . . . . . . . . . . . . . . . Respondent  
Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A) .

(Hon'ble Mr. Justice U.C. Srivastava, V.C.)

This is a Transfer case under section 29 of the Administrative Tribunals Act, 1985. The respondents earlier filed a suit in the Court of Munsif Varanasi but the plaintiff has been returned for presentation to the proper court and thereafter filed a suit in the Court of Munsif at Jaunpur praying that a decree of permanent prohibitory injunction be issued and defendants be restrained from terminating the service of plaintiff by implementing the illegal notice dated 15.12.1972, and from disrecognising the plaintiff's rightful status by causing interference in discharge of her duties and with-holding her wages. The suit was decreed by the trial court and against which the Union of India filed an appeal which has been transferred to this tribunal.

2. The respondent, Chandrawati's husband was a Khalasi under S.T.X.R./BSB in the Northern Railway but he died all of a sudden on harness on 15.5.1969 in N.E. Rly. Hospital V-aransasi. The respondent was appointed as Water Women on the Station on compassionate ground against a clear permanent vacancy on 24.8.69 and is continuously working as such without any break and she also earned 3 increments enjoying all privileges admissible to permanent Railway Servants. A notice was issued on 15.12.1972 giving <sup>s</sup> one month's time for terminating her services. The applicant

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has made several representation against the same but failed to get any reliefs, has approached the Court. According to her the termination order was void and illegal, in as much as the provision of Industrial Disputes Act has been not complied with. She gave earlier a notice on 10.10.72 and even though too much period expired but no action was taken by the respondents. Her appointment order was not issued on any compassionate ground and he only could have claim the status of temporary employee and not more than and her services under para 149 of the Railway Establishment Manual could have been terminated on one month's notice. All the pleas were taken into consideration before the court of Munsif and thus the suit was decreed.

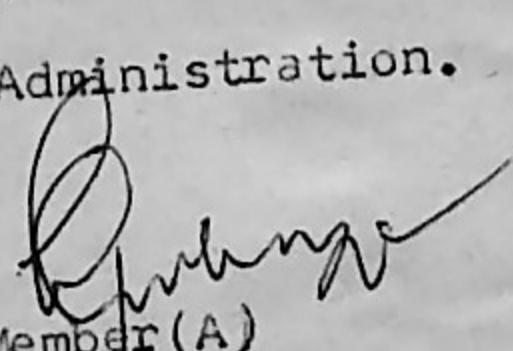
3. Obviously there was no occasion for the appellant to appoint the respondent at a particular date and clearly indicate that the appointment was made on compassionate ground because her husband had died. When her appointment was made on compassionate ground there should have been some justification for terminating her services. Under para 149 of the Railway Establishment Manual, undoubtedly the power is conferred upon the authorities to terminate the services of a particular employee but there must be some reason for the same and services can not be terminated arbitrarily. The case of the respondents is that as she was not found suitable and that is why notwithstanding the fact that she was given an appointment on compassionate ground, her services were terminated.

4. Admittedly she has attained a temporary status and Railway being an Industry she could have very well

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claimed the status of workman and the court of munsif rightly held that she was a workman and as such the provision of Industrial Disputes Act, should have been complied with. Meaning thereby that her termination amounted to retrenchment within the meaning of Industrial Disputes Act. As such without complying with the provisions of Section 25 of Industrial Disputes Act her services could not have been terminated. We also agree with the same that termination order is arbitrary and also violative of provision of Industrial Disputes Acts, and as such it was rightly quashed. Accordingly we do not find any ground not even the technical pleas which had been taken by the Union of India to set aside the decree passed by the trial court and as such this application is dismissed. The respondent will be deemed to be continuing in services and her pay shall be maintained. In view of the decree passed by the trial court the respondent was re-instated back in services. In case the respondent is working obviously she is entitled to the salary for the period during which she worked, as her suit has been decreed she will continue to work and her status will be same as was decided by the Railway Administration.

  
Member (A)

  
Vice-Chairman.

Allahabad dated 25th March, 1992.

(RKA)