

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

T.A.No. 1384/87

in

( W.P. No. 15748/84 )

Km.Sushila Chauhan.... .....Applicant

Versus

Union of India and others. ....Respondents.

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

Hon'ble Mr. K.Chayya, A.M.

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

Feeling aggrieved against the termination order dated 27.8.84 the applicant who was working as a lower division clerk in the Lal Bahadur Shastri National Academy of Administration filed a writ petition which by operation of law has been transferred to this Tribunal. She was appointed as lower division clerk for a period of 2 months vide letter dated 18.1.78. Another letter was given to her on 16.2.78 by which her services were extended with effect from 17.2.78 for a period of 6 months till the regular arrangement against this post was made which ever earlier and since then the applicant has been working i.e. with effect from 17th December, 1978 and in the mean time she also received annual increment and was also allowed to cross efficiency bar. The applicant represented that she has served more than 3 years and she may be declared as quasi permanent employee and P.F. deductions should also be made. The request for deducting the P.F. was accepted and deduction from the Provident Fund since then were made. She was asked to appear in the examination which was going to be conducted by the staff

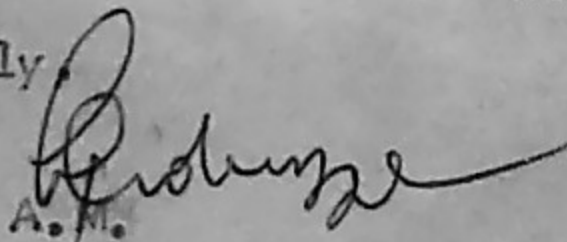
Contd....2

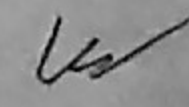


selection commission for the post of L.D.C. The applicant appeared in the same and according to her the result of the same was not made known to her but the respondents have pointed out that in the examination she failed to qualify and in the reply which has been filed by the administration it has been further stated that the second examination also took place and the applicant did not appear in the same and it was not the duty of the academy to inform the applicant that an examination was going to take place as it was a general notice. The applicant has denied the knowledge of any such notice and that is why she did not appear in the said examination. Thus it is clear that because of delay caused by the respondents in holding the examination the matter became referable to the staff service commission. If the examination would have been taken in time the applicant could have tried her luck in case she would have failed in the same and she could have tried her luck elsewhere as by that time she has not become over age. But the respondents allowed her to work continuously with annual increment and contribution towards Provident Fund was also deducted and she was then under the belief that her services were regularised and she will not be required to go elsewhere. Second time the examination also took place and that is why she did not appear in it. The respondent should have seen that the applicant being a lady a concessional approach could have been adopted taking into consideration Article 15(4) of the Constitution of India and further



she has worked for several years and the respondents took a plea that her services were not regularised and unceremoniously her services were terminated. They should have considered her case for regularisation in case similarly placed other employees for regularisation have been considered. The applicant who offered herself also would have appeared again in the examination. There appears no reason to reject her plea that she was not made aware of the fact that the examination did take place at such a time and accordingly this application deserves to be allowed partly and the respondents are directed to consider the case of the applicant for regularisation in ~~the~~ case similarly placed persons were regularised and those who were taken for employment notwithstanding the fact that rule regarding the staff service commission selection and they were treated like regular employees if otherwise one more opportunity to appear in the examination may be given to her in view of the fact that in the second time examination she could not appear and this opportunity should be given to her as early as possible if another examination which is going to take place. She may be admitted in the supplementary examination so that the matter may not be delayed. In case she succeeds, she should be given all the benefits for which she is entitled to. With these observations the application stands disposed of accordingly.

  
A.M.

  
V.C.

Dated: Allahabad  
2nd Sept., 1992

(AR)