

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH), ALLAHABAD.

O.A.NO.
T.A.NO.

OA 117/92 OF 199

Date of decision : 14.5.92

.....Kumari Sudha Kumari.....Petitioner

.....Sri. R. C. Patnak.....Advocate for the Petitioner.

Versus

.....Union of India & Ors.....Respondent

.....Km. Sadhna Srivastava.....Advocate for the Respondent (a).

CORAM:-

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

The Hon'ble Mr. A. B. Gorti, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment ? N
2. To be referred to the Reporter or not ? W
3. Whether their Lordships wish to see the fair copy of the judgment ? N
4. Whether to be circulated to all other Benches ? W


Signature

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIHAHAD BENCH.

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Registration O.A. No. 117 of 1992

Kumari Sudha Kumari Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant has filed this application under Sec. 19 of the Administrative Tribunals Act, 1985 challenging the order/notice issued under rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965 by the respondent no. 5 vide letter dated 24.12.1991 from Officer-in-Commanding Signal. Record, The applicant was issued an interview letter for the post of Civilian Switch Board Operation by the respondent No.6 on 8.8.1987 with no terms and conditions of probation period with duration or class of service. The interview took place on 17.8.1987 and the applicant has qualified in the same. Thereafter, a posting letter was issued to the applicant on 11.11.1987 by the Uttar Pradesh Area Signal Regiment Bareilly and by that letter, the applicant was appointed as Civilian Switch Board Operator Grade-II.

2. On behalf of the respondent, it has been stated that the applicant was on probation for a period of two years and after only one week after taking over the charge of her post at Meerut on 16.11.1987, she absented herself from duty for about one month from 23.11.1987 to 22.12.1987 without any leave to her credit. Ever since her appointment, she has never taken any interest in her job and inspite of being on probation she has been extremely casual, careless and grossly

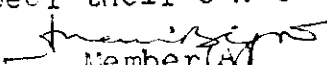
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insubordinate in her attitude and always created problem for the administration due to her negligence. On 16.2.1988, the applicant was warned for lack of interest in work and, therefore, directed to take more interest in the job assigned to her and to show improvement. In the month of January, 1989, she was served with two show cause notices for unauthorised absence as well as for neglect of duty, and again verbal warnings and written warning on 13.2.1989 is given to her to improve her professional efficiency. The applicant was issued again a warning on 21.4.1989 by the then commanding officer to make sincere efforts for improving her performance otherwise, disciplinary action will be taken against her. In the month of June, again she was warned twice and on 3.6.1989, she was absent from duty without any prior information, as such, a show cause notice was issued to her on 12.6.1989, directing her to explain within 7 days, and ultimately her probationary period was extended for one year on 16.10.1989 and after the assessment report she was found unsuitable and her services were terminated.

3. The learned counsel for the applicant contended that she has been harassed from the very beginning and the reason for harassment was that she has ~~been~~ made complaints against the officers. A reference of such complaints has been made by the applicant in her application. May be so, but it is under the mistaken belief of the applicant that the applicant has been harassed due to that very reason. It may be that the applicant under certain mistaken belief or mis-apprehension could not ~~could not~~ consider the gravity of these notices and warnings which led to ^{the} termination of her service. The learned counsel for the ^{applicant} contended that although, she was a temporary employee, she was entitled to protection of

Art. 311 of the Constitution of India. In this connection, a reference has been made to the case of Purushottam Lal Dhingra, AIR, 1958 SC page 36. The legal position in this behalf has been again recently considered in the case of Triveni Shankar Saxena Vs. State of U.P., 1992 SCC (L & S) page 440 by the Hon'ble Supreme Court. In this case, after 18 years of service, the services of the temporary employee have been terminated. The court held that the termination of services of a temporary employee as per rules on account of unsuitability assessed on the basis of adverse entry in the character roll will not be punitive and the termination in these circumstances be valid. Here in this case, on the ground of not proper functioning, the services of the applicant have been terminated and accordingly, it can not be said that the order passed against the applicant is punitive in nature. The case before the Hon. Supreme Court, referred to above, as the applicant worked for 18 years and thereafter his services were terminated, it was directed by the court that a sum of Rs. 50,000/- will be paid to him. But, in this case, the applicant has worked only for 4 years, therefore, we can say that applicant being a lady and member of Schedule Caste community although there is mistake in her part, but she will be given fresh appointment by the respondents.

4. Accordingly, we direct the respondents to consider her case for fresh appointment, moreso, when she is continuing to work under the interim order of this court, therefore, we hope that instead of throwing ^{her} back ~~her~~ from service, she will be appointed afresh by the respondents. The application is disposed of with the above directions. Parties to bear their own costs.


Member (A)
Dated: 14.5.1992


Vice-Chairman