

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : this the 12th day of April, 2001

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.
Hon'ble Mr. S. Biswas, A.

I. Original Application No.1852 of 1993.

Dr. (Mrs.) Madhuri Singh
FT/4-A, Lalmour Bagh, Cantt., Kanpur.
(Sri Arvind Kumar, Advocate)

Versus Applicant

1. Union of India through the M/o Defence Ordnance Factory Board, 10A, Auckland Road, Calcutta.
2. Director General Ordnance Factories, 6, Esplanade East, Calcutta.
3. General Manager, Ordnance Clothing Factory, Shahjahanpur.
4. Union Public Service Commission, through its Secretary, Dhaulpur House, Shahjahan Road, New Delhi.

(Sri Ashok Mohiley, Advocate)

. Respondents

A N D

II. Original Application No. 253 of 1993.

Dr. (Mrs) Madhuri Singh,
FT/4-A, Larmour Bagh
Cantt, Canpur.

(Sri Arvind Kumar, Advocate)

Vs. Applicant

1. Union of India through the Director General, Ordnance Factories, 6, Esplanade East, Calcutta.
2. General Manager, Ordnance Equipment Factory, Kanpur.

(Sri Ashok Mohiley, Advocate)

. Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. S. Biswas, A.M.

The applicant, who has filed this application under Section 19 of the Administrative Tribunals Act,

1985, has sought the following reliefs:-

1) to quash the impugned order dt. 29.10.93 by virtue of which the services of the applicant as temporary Junior Medical Officer (J.M.O.) were terminated by the President on the advice of U.P.S.C with one month's pay and allowances. In order to determine the correctness of the order of the President, the respondents be directed to produce the A.C.R file and consequent benefits be directed to be granted.

2. The applicant has submitted that she was appointed as a Junior Medical Officer in 1973 in the establishment of the respondents. She was posted and continued as such in the Ordnance Factory, Kanpur receiving regular increments etc. On 26.06.80 her services were suddenly terminated by the order dt. 26.06.80. On 29.09.85 she filed a suit in the City Munsif Court, Kanpur and obtained a decree against the termination order in her favour from the said City Munsif Court. Consequently, the applicant was re-instated vide an order dt. 8.9.86 with effect from 23.03.86. She was again removed from service vide order dt. 09.06.86. The applicant moved an application against this order under OA No. 25/87 before this Tribunal. By a decision dt. 14.03.91, the Tribunal quashed the termination order dt. 06.09.86 with direction to treat the applicant in service with consequential benefits. A further direction was given that the U.P.S.C shall consider the case of the applicant for regularisation. Following this order, she was re-instated w.e.f 14.10.91 as J.M.O in the Ordnance Clothing Factory, Shahjahanpur, but her back wages from the date of termination were not paid. A contempt

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petition for non-implementation of the order of Tribunal dt. 14.03.91 was filed under C.C.A. No. 1903/1992 which is pending.

3. The applicant was asked to appear in the written exam on 13.08.91 for the purpose of regularisation. The applicant did not appear in the said examination but represented against it by her letter dt. 02.03.91. At the same time the applicant moved an application to the Tribunal again seeking clarification on the judgement dt. 14.03.91. It was clarified that the written exam and interview would not be necessary for regularisation. The regularisation exercise was directed to be completed on the basis of A.C.R, review by the U.P.S.C. As a request to all this, the applicant finally received the impugned order dt. 29.10.93 terminating her services statedly on the ground that the U.P.S.C found her unfit for regularisation after going through the A.C.Rs. The applicant has impugned this order dt. 29.10.93 as illegal and has sought it to be quashed.

4. The respondents have contested the O.A both on facts and law stating that the applicant's appointment was purely temporary subject to six monthly review till U.P.S.C had nominated a suitable candidate. She was accordingly advised to respond to U.P.S.C advertisement. But the applicant failed to qualify in the test held by U.P.S.C in 1980 through same 92 other doctorstwere selected for recruitment to the post of Asstt. Medical Officer in the Ordinance Factories. This ^{led} ~~had~~ to the termination of the applicant and the first termination order was served on her. But she was re-instated in terms of Court's direction on 21.03.86. Eventually, her services were terminated again under Presenditial order

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on 18.09.86 under rule 5 (i) of CCS (temporary Services Rules, 1965). The applicant went to C.A.T and her termination order was quashed. The Tribunal further directed that she should be regularised by the U.P.S.C. When U.P.S.C decided to conduct a written test followed by interview she again approached the Tribunal and got a clarification in her favour dispensing with written test and interview. Direction was given that U.P.S.C may consider her regularisation on the basis of A.C.Rs. U.P.S.C assessed her A.C.Rs. and found her unfit for regularisation. Her services were considered for termination on receipt of the recommendation of the U.P.S.C which was given after perusal of her A.C.Rs. as per the clarifactory direction of the Tribunal. The order of termination dt. 29.10.92 as impugned by the applicant is, therefore, pleaded to be a legal and binding order.

5. Heard the learned counsel for the parties both on facts and law points. The issue to be decided in the case is a limited one. Whether the impugned order of termination of the temporary services of the applicant dt. 29.10.93 was passed legally or not as ordered by the Tribunal.

6. The applicant has sought the limited remedy that the legality of the said impugned order dt. 29.10.93 be determined after ^{perusal} ~~serving~~ the A.C.Rs. which were as per the order of the Tribunal were also axamined by the U.P.S.C before giving its crucial recommendation. As per the order and further clarifaction of the Tribunal the competent authority was required to only ensure that the applicant did not have to take any written test or interview by the U.P.S.C for the purpose of regularisation of her temporary services. U.P.S.C was specifically

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directed to ~~and~~^u go through the A.C.Rs. of the applicant for the relevant period i.e. when the applicant was in actual service and ~~gives~~^{gives} it ^u recommendation. The U.P.S.C exactly did that ^{sh} and recommended that she was unfit for regularisation

7. After going through the records and the A.C.Rs file placed before us, we are convinced that the A.C.Rs of the ^{sh} applicant for the relevant period when she was in actual service only were written and perused by the U.P.S.C. The recommendations were given after perusal of her records. It is not a fact as alleged by the applicant that adverse ~~were~~ were not communicated. The ^{u entries} adverse ~~which~~ are cognisable as per the A.C.R records, were communicated to her. In the result we find no justiable reasons to interfere with the order dt. 29.10.93. ^{Both} The O.A, fail^{sh} on merits, therefore, dismissed. ^u Consequently, ~~the connected contempt notice also~~ stands dropped. ^u ~~SB~~

8. There will be no order as to costs.

S. A.

S. B. Singh
Member- A.


Vice-Chairman.

/Anand/