

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

(THIS THE 16th DAY OF September, 2009)

PRESENT:

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

ORIGINAL APPLICATION NO. 376 OF 2007
(U/s, 19 Administrative Tribunal Act.1985)

Vijay Laxmi, aged about 45 years Daughter of Late Shri Amar Chand Presently residing at House No. C-37, Moti Kunj Extension District-Mathura (UP).

.....Applicant

By Advocate : Shri K.K. Mishra.

Versus

1. Union of India, through General Manger, North Central Railway, Nawab Yusuf Road, Allahabad.
2. The Divisional Railway Manager (P), North Central Railway, Agra Division, Agra.
3. The Senior Divisional Engineer-I, North Central Railway, Agra.
4. The Assistant Divisional Engineer-II, North central Railway, Mathura Jn.
5. The Senior Section Engineer (P. Way), South, North Central Railway, Mathura Jn.
6. The Senior Section Engineer (P.Way), North Central Railway, Palwal.

..... Respondents

By Advocate : Shri J.P. Tripathi.

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

Heard Shri K. K. Mishra, Advocate learned counsel representing the Applicant and Shri J.P. Tripathi, Advocate, learned counsel appearing on behalf of the Respondents.

2. Vijay Laxmi, the Applicant in the OA, claims following reliefs:-

"(8) RELIEF(S) SOUGHT:

- (i) *to issue a writ, order or direction in the nature of mandamus directing the Respondent No. 6 to permit the petitioner to resume her duties as Gangman with him forth with and further that the petitioner be treated as having joined her duties, pursuant to the transfer order dated 10.01.2007, with effect from 15.03.2007 and to pay the salary month to month.*
- (ii) *to issue a writ, order or direction in the nature of mandamus directing the respondents herein to release and pay the salary to the petitioner for the period from 14.11.2006 to 19.01.2007 during which the petitioner remained sick as certified by the authorized Railway Medical Doctor and from 20.01.2007 to 14.03.2007 during which the petitioner availed leave average pay, within a period as may be fixed by this Hon'ble Tribunal.*
- (iii) *to issue any other suitable writ, order or direction in the facts and circumstances of this case which this Hon'ble Tribunal may deem fit and proper.*
- (iv) *to award the cost of the petition."*

3. The Applicant inter alia amongst others, pleads that after completing her graduation and acquiring certificate in Stenography (English) form ITI, Ferozpur, she got herself registered with 'Employment Exchange' Mathura, the Respondents through Employment Exchange called her for selection in the year 1982 and she participated in the selection process and selected, she was initially engaged in 'Casual Capacity' on Daily-Wages' as Steno-typist and assigned duties of 'Steno-typists' vide order dated 6rd December 1983; she was acceded having been found medically fit in B-I category temporary status vide order dated 20th January 1988, and, but on record she was also shown working sometime as

'Machine Operator' and sometime as 'Record Sorter' but worked throughout as Stenographer and at no point of time, she worked as 'Machine Operator' or 'Record Sorter'. The Applicant has filed various documents (along with OA) i.e. Annexures A-I, A-II, A-III, A-IV, A-V, A-VI, A-VII, A-VIII, A-IX and Annexure A-X (ranging from 6th November, 1982 to 1st March, 1996) to in support of her-case that she was engaged and throughout thereafter she worked as Steno-typist.

4. AEE (C) in his correspondence/letter (Annexure A-X) clearly stated that services of the Applicant were utilized as Steno-typist, she was declared fit for regular posting. Since there was no regular incumbent posted as Steno-typist work of his office was badly hampered and, hence a post of Khalasi was must and orders for permanent posting of the Applicant be issued vide order dated 06.06.1998. The Applicant was however, regularized and posted as 'Gangman' to work on open line-which she objected and requested for her continuance on original place as Steno-typist. The Assistant Engineer AE-1 Mathura, again issued order dated 10.01.07/Annexure A-13 directing the Applicant to work as Gangman on open line.

5. The Applicant objected and again submitted representation dated 22.01.07/Annexure A-XVI, but when no action was taken she submitted another Representation/letter/dated 15 March, 07/Annexure A-XX before Respondent No. 6. When no decision taken, she approached the Tribunal by filing present OA.

W.

6. The Respondents have filed counter affidavit. According to the Respondents, Applicant was not appointed as Steno-typist but as Gangman/Sorter/Mechanical-Operator etc.. Documents filed by the Applicant along with OA (referred to above) have not been denied. The Annexure A-II/Compilation-II shows that Applicant was engaged and required to work as Steno-typist categorical averments (that she was posted and worked throughout as Steno-typist) in Para 4.2 of the OA, have not been denied by the Respondents. Para 7 of the counter affidavit reads:-

"7. That the contents of paragraph no. 4(2) of the O.A. as stated not admitted and are denied. It is further submitted that is not related from the office of respondents."

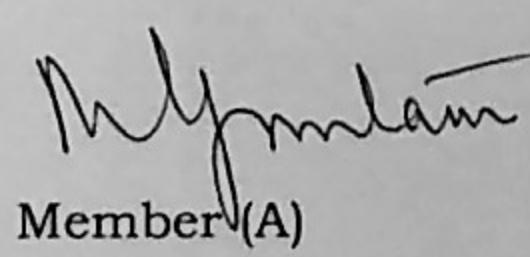
7. From the perusal of the documents on record, it is established that the Applicant was selected as Steno-typist, "work relating to the post of a Steno-typist" existed throughout and that the Applicant has worked as Steno-typist for about his decades. The fact of initial selection as Steno-typist and also she was allowed to discharge duties for more than 2 decades is not rebutted or denied. The Applicant has been working as Steno-typist since the work demanded Order/Action of the Respondents directing her to work as Gangman cannot be approved/justified and apparently arbitrary.

8. Services of the Applicant could not be dispensed with in a slip shod manner. The impugned action of the Respondents is whimsical and against principle of 'fair play' and 'good conscience'.

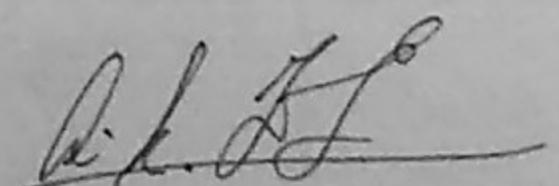
9. The Applicant is entitled to a direction against the Respondents, (including Respondent No. 6/The Senior Section Engineer (P.Way), North Central Railway, Palwal) to permit the Applicant to work as Steno-typist in the office of ADPM, NCR/AEN, Mathura and, treat/regularize her services against the post of Steno-typist and pay arrears as well as future salary (along with all increments as may have fallen due) treating her in service without break.

10. Consequently, we direct the Applicant to submit within 6 weeks from today a certified copy of this order before concerned Respondents/Competent Authority who shall in turn ensure that the Applicant is allowed to join her duties forthwith as Steno-typist in the office in question at Mathura (i.e. office of AEN, NCR, Mathura) and pay her arrears as well as month by month future salary treating her in continuous service and other consequential benefits-within two months as per relevant statutory rules.

11. OA stands allowed subject to above observation. No costs.



Member (A)



Member (J)

/s.v./-