

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 37/92
T.A. No.

DATE OF DECISION

2-11-1993.

Ms. Sunita M. Mistry Petitioner

Shri K.K. Shah Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Mr. Jayant Patel Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel Vice Chairman.

The Hon'ble Mr. V. Radhakrishnan Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Sunita Mohanlal Mistry
 Lower Division Clerk
 under the Asst. Registrar of
 Trade Mark.

Applicant

Advocate Shri K.K. Shah

Versus

1. Union of India,
 notice to be served through
 the Secretary, Ministry of
 Commerce, Trade and Industry
 New Delhi

2. The Joint Registrar
 of Trade Mark Registry
 10, M.K. Road
 Central Building, Bombay.

3. Assistant Registrar of Trademark
 Trademark Registry Branch
 15/27 National Chambers (1st Floor)
 Ashram Road, Ahmedabad.

Respondents

Advocate Mr. Jayant Patel

O R A L J U D G E M E N T

In

O.A. 37 of 1992

Date: 2-11-1993

Per Hon'ble Shri N.B. Patel Vice Chairman.

The applicant was appointed as Lower Division Clerk in the office of the respondent no.3 on purely temporary and adhoc basis by order dated January 3 1991, Annexure A-2. The applicant was not selected for appointment to the post of L.D.C. in a regular way, but as regularly selected candidates were

not available for appointment to the post, she was appointed on purely adhoc basis in the sense that her appointment was to continue till a regularly selected candidate was available. The applicant's employment is terminated and it is the case of the applicant that her services are terminated, even though regularly selected candidate is not available for the post occupied by her on adhoc basis.

2. In the reply, it is stated that the applicant has subsequently appeared at the regular selection test and has failed. However, it was conceded that, as yet, no regularly selected candidate is available to replace the applicant. It appears that some other persons had to be appointed on adhoc basis after termination of the services of the applicant.

3. The aforesaid being the undisputed facts of the case, there cannot be any doubt that the termination of the employment of the applicant before any regularly selected candidate was available was bad. The termination is, therefore, got to be set aside and the respondents have to be directed to reinstate the applicant in service. However, in the circumstances of the case, there is no question of granting continuity of service to the applicant nor is it a case where back-wages should be awarded to the applicant.

4. In the result, therefore, the application is allowed and the respondents are directed to reinstate the applicant, within three weeks of the receipt of a copy of this judgement, as Lower Division Clerk on adhoc basis and on the same terms on which she was employed till her termination, including the term that her appointment will last till a regularly selected candidate was available. Prayer regarding grant of continuity of service and back-wages is rejected. No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman.

*AS.