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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.222 OF 1992
Cuttack this the 10th day of March, 1999

Smt.C.Arunalata Rani

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.3.99

10.3.99
(G.NARASIMHAM)
MEMBER(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.222 OF 1992
Cuttack this the 10th day of March, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AN
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)
...

Smt. C.Arunalata Rani,
W/o. K. Anilbabu,
T.O. Gr.II, S.E.Railway,
At/Khurda Road, P.O: Jatni
Dist: Puri

...

Applicant

By the Advocates Mr.G.A.R.Dora

...
-Versus-

1. Union of India through the
General Manager, S.E.Railway,
Garden Reach,
Calcutta-43
2. Divisional Railway Manager (P)
S.E.Railway, At/Khurda Road,
P.O: Jatni, Dist: Puri
3. Divisional Singnel & Telecom
Engineer(M) S.E.Railway,
At/Khurda Road, P.O: Jatni,
Dist: Puri

...

Respondents

ORDER

MR.G.NARASIMHAM, MEMBER(J): In this application under Section 19 of the Administrative Tribunals Act, 1985, filed on 25.5.1992 with a prayer to quash the order dated 30.8.1991 (Annexure-A/7) of Res.3 and order dated 11.5.1992 (Annexure-A/10) of Res.2, terminating service of the applicant serving as T.O. Gr.II, S.E.Railway, Khurda Road, with other consequential reliefs.

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2. Applicant's father while serving as a Driver in S.E.Railway died. The applicant, a Matriculate, moved for compassionate appointment. She appeared in the written test on 12.1.1988(Annexure-A/1). On passing the written test, she appeared viva voce test and ultimately the competent authority approved her appointment in Class-III(Gr.C) vide order dated 15.4.1988 of Res.3 (Annexure-A/2). This order reveals approval of General Manager was obtained for relaxation of time limit. She was given regular appointment order on 1.6.1988 (Annexure-A/3) and she joined as Telephone Operator on 3.6.1988. Her mother Smt. P.Sugunamma was also by then serving as Mid-wife, S.E.Railway, Mancheswar.

Two proceedings have been initiated, i.e. one against the mother and the other against the applicant on the ground that the applicant, though married at the time of her appointment gave a declaration that she was unmarried and her mother suppressed this fact to secure appointment. Welfare Inspector, as Inquiring Officer, as per his report 09.9.1991 (Annexure-A/4) relying on the Registered Marriage Certificate issued by Court on 22.8.1990 exonerated the mother. The disciplinary authority, viz. Senior Divisional Medical Officer accepted this inquiry report and dropped the proceedings against the mother vide Annexure-A/5.

However, in the inquiry held against the applicant, viz., Smt.Arunalata Rani, the Inquiring Officer held that she deliberately suppressed the fact of her marriage in her declaration dated 18.1.1991 for securing appointment on compassionate ground

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(Annexure-A/6) and Respondent No.3, as disciplinary authority, in order dated 30.8.1991 (Annexure-A/7) terminated her service with effect from 1.9.1991. As against this order the applicant preferred appeal before Respondent No.2 under Annexure-A/8. The appellate authority, under Annexure-A/9 dated 11.11.1991 by observing that even a married daughter can act as a bread winner for a family directed her case for appointment to be treated as a fresh entrant to the post of Telephone Operator Gr.II. However, Respondent 2 by letter dated 11.5.1992(Annexure-A/10) intimated termination of her service with immediate effect on the ground that General Manager, i.e. Respondent No.1 held her not to be the bread winner as her widow mother was serving as a Staff Nurse.

These facts are not in controversy. On 25.2.1992 the application was admitted and operation of the order of termination of her service was stayed and this order is still continuing.

3. The main grounds averred in the application are that through love affair the applicant became pregnant and delivered a baby prior to her appointment in the year 1988 and ultimately the person responsible for this pregnancy, ^{married her} on 22.8.1990. However, this is not relevant ~~to~~ the issue involved in this application, because the Reviewing Authority under Annexure-A/9 and A/10 held that even a married daughter can be a bread winner on the death of her father. Another ground urged that as her earlier appointment in the year 1988 received approval of General Manager (Res.1) (Annexure-A/2) dated 15.4.1988,

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the very same General Manager could not have terminated her service in the year 1992 as indicated in Annexure-A/10. Further, by the order of the appellate authority, order dated 11.11.1991(Annexure-9) she joined as a fresh entrant without the General Manager's approval and General Manager sitting in an administrative capacity could not have disturbed the order of the appellate authority passed under Railway Servants(Disciplinary & Appeal) Rules, 1968.

4. The respondents in their counter justify the termination.

5. We have heard Shri G.A.R.Dora, learned counsel for the petitioner and Shri D.N.Mishra, learned Standing Counsel appearing for the respondents-railways.

6. In course of arguments, our attention has been drawn to the Railway Board's orders on compassionate appointment compiled upto March, 1991. Under Clause-1(ix), it has been mentioned that normally only the father is taken to be the bread winner of the family. In the event of both wife and husband are railway employees, on account of death of the husband employment is permissible to a ward but not on account of death of the wife. It follows, even if a widow of the deceased railway employee was serving in the railway at the time of death, compassionate ^{appointment} is permissible to a ward. It may be true that under the rules, compassionate appointment to a married daughter needs approval of the General Manager, but such an approval was already obtained when the applicant was given appointment in the year 1988 vide order dated 15.4.1988 of Res.3 under Annexure-A/2. In

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view of this approval once obtained, it is not understood why the matter was referred to General Manager in the year 1991 for approval after the appellate authority set aside the order of the disciplinary authority and treated as a fresh appointee being the bread winner under the compassionate appointment scheme. Appellate authority passed this order as a quasi judicial authority in exercise of his power under Rule-22 of the Railway Servants(Discipline & Appeal) Rules 1968 framed by the Government in exercise of the powers conferred by the proviso to Article 309 of the Constitution. Such order passed in exercise of a statutory power in the capacity of a quasi judicial authority cannot be disturbed by an administrative order. Such order can be interfered with only in exercise of powers of revision or review under Rule 25 and 25(a) of the aforesaid rules. We are, therefore, not inclined to sustain the order dated 11.5.1992 (Annexure-A/10) passed by Respondent 2 pursuant to the administrative decision taken by Res.1 and communicated the same to the applicant.

7. There has also been prayer for quashing order of the disciplinary authority dated 30.8.1991 (Annexure-A/7). Since this order has been modified by the appellate authority under Annexure-A/9, which is not under challenge in this application, we are not inclined to quash order dated 30.8.1991 under Annexure-A/7.

For the reasons discussed above, we quash order of termination of appointment of the applicant under Annexure-A/10.

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8. In the result the application is allowed in part without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 10.3.99

B.K.SAHOO

10.3.99
(G.NARASIMHAM)
MEMBER(JUDICIAL)