

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
C. T. A. No.

101

1991

DATE OF DECISION 5.6.1991

V. K. Vinodini _____ Applicant (s)

Mr. M. Girijavallabhan _____ Advocate for the Applicant (s)

Versus

The Post Master General, Calicut Division
Calicut and others _____ Respondent (s)

Mr. P. Sankarankutty Nair, _____ Advocate for the Respondent (s)
ACGSC

CORAM:

The Hon'ble Mr. S. P. Mukerji, VICE CHAIRMAN

The Hon'ble Mr. N. Dharmadan, JUDICIAL MEMBER

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. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. S. P. Mukerji, VICE CHAIRMAN

In this application dated 15.1.1991 the applicant who is a member of the Scheduled Caste Community and have been appointed as a part-time Scavenger w.e.f. 27.11.1989 has challenged the impugned order of termination of her service dated 31.12.1990 at Annexure-B which reads as follows:

"In accordance with the orders contained in SRM RMS CT BN., Calicut 673 032 letter No. B-III/PT/Misc., dated 26.12.1990, the appointment of PT Scavenger made by this office letter of even number dated 10.7.1990 is hereby cancelled with immediate effect."

She has also challenged the impugned notice dated 12.1.1991 at Annexure-C by which applications have been invited for filling up the post held by her. The grounds taken by the

applicant is that the impugned order of termination is without any notice and without any reason and in violation of Article 311 of the Constitution. She has also argued that there is no justification to appoint Mazdoor drawing higher pay in the post of part-time Scavenger held by her. She is stated to have studied upto SSLC and is registered with the Divisional Employment Exchange, Palakkad. She has given the Registration No. also in this application. She has also argued that denying her employment on a regular basis is violative of the provisions in Article 14 and 16 of the Constitution.

2. The respondents have conceded that the applicant was provisionally appointed as part-time scavenger for 89 days w.e.f. 1-4-90 with a quantum of 2 hours duty per day and later she was appointed as a part-time Scavenger with effect from 2-7-90. They have stated that in accordance with Post Master General, Trivandrum's letter No. Rectt/27-1/85 dated 29-10-86 no appointment of casual Workers could be made otherwise than through Employment Exchange and since the applicant had been appointed without being sponsored by the Employment Exchange w.e.f. 29-6-90 and this was brought to the notice of the Department by one of the Service Unions and her service was terminated by cancelling the appointment. We have heard the arguments and gone through the documents. The applicant was appointed by the order dated 10-7-90 Annexure-A which reads as follows:

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..../

"Smt. V. K. Vinodini, is hereby appointed as part-time Scavenger (Contingency paid) and Posted at SRO Shoranur w.e.f. 2.7.90 with a quantum of work of 2 hours daily.

Smt. V. K. Vinodhini is made distinctly to understand that her service will be regulated by the conditions applicable to part-time contingency employees of the Department of Posts from time to time."

3. The bare reading of the aforesaid order would show that her appointment as part-time Scavenger was without any condition. On the other hand, she was given the assurance that her service will be regulated by the conditions applicable to part-time contingency employees. The only reason for terminating her appointment was the circular issued by the PMG. Since the applicant cannot be faulted for her being appointed even though she was not sponsored by the Employment Exchange nor is the case of respondents that she was a party to the irregular appointment, we feel that she is entitled to the protection under her constitutional rights and her services could not be terminated summarily and peremptorily by a non-speaking order and that too without any notice. In the facts and circumstances, we have no hesitation in striking down the impugned order dated 31.12.1990 at Annexure-B as also the notice inviting fresh application at Annexure-C dated 12.1.1991. The applicant has since been allowed to continue in service in pursuance of the interim order dated 11.2.1991. We hereby make that order absolute and direct that the applicant should be continued

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in accordance with law
in the post as if the impugned order dated 31.12.1990
had not been passed.

4. The application is allowed as above. There will be
no order as to costs.

N. Dharmadan
5.6.91
(N. DHARMADAN)
JUDICIAL MEMBER

S. P. Mukerji
5.6.91
(S. P. MUKERJI)
VICE CHAIRMAN

KMN