

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 293/2002

FRIDAY THIS THE 11TH DAY OF FEBRUARY, 2005.

C O R A M

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER,

S. Nirmala Devi
Lady Ayah Conservancy Worker
Air Force Station
Beach (P.O.), Trivandrum.

Applicant

By Advocate Mr. Balakrishnan Gopinathan

Vs.

1. The Commanding Officer
(Wing Commander) Head Quarters
Southern Air Command
Air Force Station
Trivandrum.
2. The Chief Administrative Officer
(Wing Commander)
Air Force Station
Beach Road P.O.
Trivandrum -695 007
3. Union of India
represented by the Secretary
Ministry of Defence
New Delhi.

Respondents

By Advocate Mr. C. Rajendran

O R D E R

HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

The applicant S. Nirmala Devi, a Lady Ayah/ Conservancy Worker at the Air Force Station, Trivandrum is aggrieved by her disengagement from service and is seeking the following reliefs:

- a) Direct the respondents to re-engage the applicant as Conservancy Worker/Ayah in preference to her juniors and outsiders

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- b) Declare that the requirement of sponsorship through the Employment Exchange, etc. need not be insisted upon with regard to the applicant taking into consideration her long service and age when considering the question of her regularisation.
- c) To direct the 1st respondent to consider and dispose of Annexure A7 in accordance with law.
- d) Grant such other and further reliefs as are just, proper and necessary or may be prayed for.
- e) Declare that the applicant is entitled to be considered for the grant of temporary status with effect from the date on which the applicant completed 240 days of work in a year, without insisting on sponsorship through the Employment Exchange.
- f) Direct the respondents to consider the applicant for grant of temporary status as per terms of 1993 scheme for regularisation and grant of temporary status of casual labourers.

2. The main ground advanced by the applicant is that she has been continuously engaged since 1992 as Ayah and then as a Conservancy worker with more than 206 days in a year and yet she has not been considered for regularisation. Instead, she has been disengaged from work and her juniors have been continued on the same job. She cites the judgment of this Tribunal in OA 306/98 in which the respondents were directed to consider her representation and not to terminate her services if work was available and if persons with lesser length of service were retained, till the disposal of the representation. The representation was disposed of by A6 order (16.2.2000) refusing to grant regularisation to the applicant on the ground that it was not feasible as per the existing policy and also for the reasons that there was no regular Group-D vacancy and the applicant did not fulfil the criteria for regularisation. She was however continued until 31.1.2001 and her services were terminated w.e.f. 1.2.2002

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on receipt of adverse reports about her activities. It now transpires that the applicant was re-engaged from 15.5.2002 as a conservancy worker in regular intervals as per the orders of the controlling authorities. This fact of re-engagement has not been disclosed by the applicant in the O.A., while the respondents have disclosed this in the reply statement submitted on 5.12.2003.

3. Heard. It is established that the applicant was appointed as a part-time Ayah for four hours in a day (8.30 hrs to 12.30 hrs) on a remuneration of Rs. 300 p.m. There is an unsigned certificate (A2) showing that she was working as such until 31.12.1997. Though no certificates have been produced for later periods it has been admitted by the respondents that she was working in continuation for periods not exceeding 19 days in a month depending on availability of funds as a conservancy worker until her services were terminated w.e.f. 1.2.2002 and she was re-engaged from 15.5.2002. The crux of the matter is whether the applicant can legitimately lay claim for regularisation of her services on the basis of her continued engagement in the manner assumed and claimed by her. Since the respondents have averred that the Ayah segment of her work was paid from the unofficial Regimental Fund, that she was engaged on a part time basis, the certificate apparently would serve no purpose, particularly since the source and authority of that certificate are not apparent. In regard to the spell as a conservancy worker, the respondents are wrong in assuming that the appointment was made in the absence of

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non-appointment of municipal workers and hence this Tribunal has no jurisdiction. The second spell would have to be reckoned as the spell of casual service under the Air Force Administration. But then we have no record of engagement for the period beyond 15th May, 2002.

4. Since the applicant is now continuing, the relief of re-engagement evidently has become infructuous. In regard to her claim for regularisation I do not find any evidence relating to her eligibility from 15.5.2002 onwards. In case the criterion of required number of full time days in a year has been fulfilled then it would only be technical to insist on employment exchange sponsorship. But if as the respondents say, a period of 89 days of engagement is followed by the same period of disengagement, then no claim for regularisation would arise. The applicant has also not furnished any evidence of continuous full time engagement from 15th May, 2002.

5. In the result I dismiss the application as partly infructuous and partly non-maintainable. No order as to costs.

Dated the 11th February, 2005.


H.P. DAS
ADMINISTRATIVE MEMBER

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