

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 312/93

Monday, this the 21st day of March, 1994

SHRI N. DHARMADAN (J)
SHRI S.KASIPANDIAN(A)

C.J. Treesa,
Thaikkozhithara, Gandhinagar, EWS 685,
Kochi-20. .. Applicant

By Advocate Shri Babu Cherukara (by representative)

V/s

1. Union of India, rep. by Secretary, Min. of Finance (Dept. of Revenue), New Delhi.
2. The Collector, Central Excise & Customs, Central Revenue Building, I.S.Press Road, Kochi-18.
3. The Asst. Collector of Central Excise, Ernakulam Division-I, Tharakkandam Centre, Kochi-18. .. Respondents

By Advocate Shri C.N.Radhakrishnan, ACGSC (by rep.)

ORDER

N. DHARMADAN (J)

Applicant is a part-time Sweeper in the office of the second respondent. She is aggrieved by the denial of regularisation even though her juniors were appointed as Sweepers on regular basis in the same office.

2. Applicant commenced her service in the year 1977. Later, as per Annexure-A1, she was appointed as a contingent part-time Sweeper w.e.f. 21.9.78. While she was continuing in that post some of her juniors, Smt. K.A. Barbara, Smt. T.R.Suraja and Mr. M.P. Prakasan, who were part-time Sweepers at Central Headquarters, Ernakulam, were

regularly appointed as Sepoys without considering the case of the applicant. Hence, she filed Annexure A-II representation on 31.1.91 before the second respondent, which has not been considered and disposed of so far. Hence, she filed this application for a direction to the respondents to appoint her as full-time Sweeper/Sepoy in the office of the Central Excise Department.

3. In the reply respondents have admitted all the facts stated by the applicant except the statement in para 2 of the application pertaining to her juniors Smt. K.A.Barbara, T.R.Suraja and Shri M.P.prakasan. According to them, the juniors are duly qualified under the recruitment rules. The qualification for regular appointment to the Group-D cadre is pass in the seventh standard. Since the applicant did not possess this qualification, she was not considered along with her juniors; she studied only upto second standard.

4. It is strange to take a view that a lady who was working as a part-time Sweeper in the office of the second respondent from 1977 discharging her duties to the complete satisfaction of the officers concerned should satisfy the educational qualification of VIIth standard for getting regularisation along with her juniors at this belated stage. First of all, for a Sweeper to be elevated as Sepoy, a strict compliance of the educational qualification is not necessary if she is otherwise quite qualified and fit for the job. Secondly, this qualification is not strictly enforced by the respondents in the case of some of the other candidates.

5. In fact Smt. Barbara, who was regularised along with two others in the Group-D post had not satisfied the educational qualification prescribed for the post under the

rules. Applicant in the rejoinder denied the statement in the reply and submitted that Smt. Barbara has not studied upto VIIth standard; she has studied only upto Vth standard. If Barbara can be given promotion without insisting the educational qualification, the applicant can also be given regularisation. Thus, even accepting the contentions of the respondents for arguments sake, we are of the view that the respondents have deviated from the recruitment rules in the matter of minimum educational qualification of VIIth standard prescribed for regularisation. Admittedly, all the persons including Smt. Barbara are juniors to the applicant. Having regard to the long service of the applicant, we are of the view that there is no justifiable reason for denying the benefit of regularisation to the applicant particularly when unqualified junior of the applicant had been posted in a Group-D post without insisting minimum educational qualification under the recruitment rules.

6. The action of the second respondent is discriminatory and arbitrary. However, the applicant does not want to quash the appointment of her juniors. Her only prayer is to appoint her also in the Group-D cadre of Sweeper/Sepoy having regard to the fact that she is working in the office from 1977 onwards and discharging her duties to the satisfaction of her superiors. The experience gained by the applicant on account of her long service can be treated as eligible qualification in the facts and circumstances of the case for getting regularisation by invoking the relaxation provision as done in the case of Smt. Barbara.

7. In this view of the matter, we allow the O.A. and declare that the applicant is entitled to be considered for appointment as Sweeper/Sepoy. Accordingly, we dispose of

the application directing the second respondent to consider regularisation of the applicant and post her along with Smt. Barbara if she is otherwise fit and suitable for the work.

8. The above direction shall be complied with within a period of three months from the date of receipt of a copy of this order.

9. The application is disposed of as above. There will be no order as to costs.

S.Kam
21.3.94

(S.KASIPANDIAN)
MEMBER(A)

N. Dharmadan
21.3.94

(N.DHARMADAN)
MEMBER(J)

v/-