

(45)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 151/91

Smt. Aliya Begum

Applicant.

versus

Union of India & others

Respondents.

Hon.Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, VC)

The applicant was engaged on 14.11.1983 as Substitute Waterwoman under the D.R.M., N.E. Railway, and was posted at Mailani. According to the applicant she continued to work upto 2.7.90 i.e. more than 2300 days and was given grade and scale as well with broken periods. In the year 1984 for 306 days, 1985-365 days, 1986-362 days, 1987-364 days, 1988-362 days, 1989-363 days and 1990-178 days. Thus, according to the applicant she attained the temporary status. In view of para 2315 of Railway Establishment Manual which reads as follows, substitute has been defined:

"A person engaged in Indian Railway Establishment on regular scales of pay and allowances applicable to posts against which they are employed. These posts may fall vacant on account of railway servant being on leave or due to non availability of permanent or temporary

U'

railway servants and which cannot be kept vacant"

In view of para 2318, which reads as follows, the applicant has attained temporary status:

"Substitutes should be afforded all rights and privileges as may be admissible to temporary railway servants from time to time on completion of 6 months of continuous service.

The continuous service is to be considered and after having put in continuous three months her services may be treated as temporary. It appears that in place of applicant one Smt. Poonam who was to get compassionate appointment, was appointed and that is why the services of the applicant were terminated. According to the applicant as she had attained temporary status, the services could not have been terminated without following the provisions of Industrial Disputes Act.

2. The respondents have pointed out that the circumstances under which the applicant's services were terminated. They stated that the applicant was offered appointment elsewhere also but the applicant declined to go elsewhere and wanted to go to Mailani. Notwithstanding that she started as Substitute Water woman and has continuously worked since then, she had not attained the temporary status and she was not entitled to be regularised/absorbed.

3. It is true that the Railway Administration was also obliged to give compassionate appointment to other women, as stated by the learned counsel for the respondents,

W

an alternate appointment could be given to the applicant as the same was offered. The learned counsel for the applicants stated that the applicant never declined to accept the appointment and she is prepared to accept the said appointment and she is ready to go elsewhere.

4. The respondents are directed to give appointment to the applicant at Mailani under respondent No. 2 or elsewhere and include her name in the register of candidates who are waiting for regularisation in accordance with the seniority of such persons. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/

Lucknow:Dated: 19.5.92.