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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH**

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

250/87

1990

DATE OF DECISION : 10.08.1990

Smt. Kamalini

Petitioner

Shri S.D.Dharmadhikari,

Advocate for the Petitioners

V/s.

The Union of India and others

Respondent

Shri S.S.Wandale,

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G.Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. I.K.Rasgotra, Member(A).

1. **Whether Reporters of local papers may be allowed to see the Judgement?** ✓
 2. **To be referred to the Reporters or not?** ✓
 3. **Whether their Lordships wish to see the fair copy of the Judgement?** ✓
 4. **Whether it needs to be circulated to other Benches of the Tribunal?** ✓
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :NEW BOMBAY BENCH
NAGPUR.

TR 250/87.

Smt Kamalini Applicant.
versus
The Union of India and
others ... Respondents.

P R E S E N T :

The Hon'ble Sri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Shri I.K.Rasgotra, Member(A).

For the applicant- Shri S.D.Dharmadhikari, Advocate.

For the respondents- Sri S.S.Wandole, Advocate.

Date of hearing - 9.8.90.

Date of Judgment and Order - 10.8.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

This relates to ~~the~~ Writ Petition No. 2312/82 on the file of the High Court of Bombay, which has been received on transfer.

2. The Regional Family Welfare Planning Officer, Office of the Chief Medical Officer, Central Railway, Bombay, issued an advertisement on 28.10.1965 for appointment to the post of District Extension Educator (D.E.E.). The applicant, pursuant to the same, was appointed in the pay scale of Rs. 210-425.00 p.m. and she worked in the post ~~on and~~ from 1.8.1966 to 30.11.1969. On 4.8.1969, a notice was issued to her intimating that the post of DEE(Female) was ^{to be} abolished with effect from 1.10.1969, and hence the applicant was offered an alternative appointment as Clerk in the grade of Rs. 110-180.00. Having no other alternative, it is alleged, the applicant accepted the offer. It is stated that as DEE(Female) she ~~was~~ drawing a basic salary of Rs. 240/- per mensem, but on joining as Clerk her salary was reduced to Rs. 110.00 p.m. It is further alleged that in the grade of Junior Clerk, her services rendered as DEE was not even taken into account in

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the matter of fixation of pay.

3. It is alleged by the applicant that on 3.11.1976 when the Railway Board decided on the question of confirmation of the staff working in the Family Planning posts, it was decided that the DEE should be given paper lien against the posts of Personnel Inspector/Welfare Inspector/Health Inspector on the scale of pay of Rs. 425-640.~~00~~. It is ~~al~~gued by the applicant that while the benefit of paper lien was granted to DEE(Male), it was not allowed to the DEE (Female) and, as such, it is discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is pointed out that on her representations, the General Manager recommended her case, but it was not accepted by the Railway Board.

4. The applicant prays for a direction to the respondents to absorb her or grant her the benefits of protection of pay and emoluments which she was drawing as DEE.

5. In the reply filed on behalf of the respondents, it is stated that by the letter dated 19.5.1969, the Railway ^{Board} decided to abolish the post of DEE(Female) under operation of the revised pattern of family planning. It is stated that the appointment of the applicant as DEE was in a temporary capacity and subject to termination at any time and that when the applicant had to face retrenchment due to contraction of the cadre she was offered the post of Clerk which she accepted. It is stated that she was allowed weightage of service rendered by her in the Medical Department and, accordingly, her pay was fixed by granting her three increments. It is contended that after accepting the appointment as Junior Clerk, when she was

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absorbed in the cadre she cannot claim protection of the pay she was drawing as DEE(Female). The allegation of discrimination on the ground of gender is denied.

6. It is rather unfortunate that the applicant with sufficient educational qualification could not continue in the post of DEE(Female). However, as her appointment against that post was on a temporary basis, when the post was proposed to be abolished, necessarily the applicant had to ~~have~~ face retrenchment. It was at that time that to avert the same that she was offered the alternate job of Junior Clerk, which she accepted. Some concessions have indeed been shown to her on account of her previous service in the matter of fixation of her pay in the cadre of Clerk. After getting herself absorbed in the cadre of Junior Clerk, to which post normally one cannot claim to be directly appointed without undergoing a selection, it is not open to the applicant to claim that she should be allowed the pay of the post of DEE.

7. The reliance placed by the applicant on the orders of the Railway Board issued on 3.11.1976 equating DEE(Male) with the corresponding posts in the general side and making provisions ~~for~~ paper lien so as to enable ^{holders of the post} ~~them~~ to progress ^{the} ~~their~~ career, cannot help the applicant since ^{the} ~~posts~~ of DEE(Female) was no longer in existence at the time of the aforesaid orders.

8. It follows that there is no merit in the application. It is accordingly dismissed.

I.K. Rasgotra
(I.K. Rasgotra)
Member(A) 10/8/1990

G. Sreedharan Nair
(G. Sreedharan Nair)
Vice Chairman.

S.P. Singh/
9.8.90.