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CAT/5/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW BOMBAY BENCH

O.A. No. 162/87  
~~R.A.XX~~No.

198

DATE OF DECISION 8.2.1990

Smt. Mariamma George. Petitioner

Mr. T.P.C. Nair Advocate for the Petitioner(s)

Versus

Wing Commander, A.F. Air Force Station, Thane  
Respondent

Mr. R.K. Shetty Advocate for the Respondent(s)

### CORAM

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

The Hon'ble Mr. M.Y. Priolkar, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? X
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. Whether it needs to be circulated to other Benches of the Tribunal ? yes

*Sp 8/2*  
(G. SREEDHARAN NAIR)  
VICE-CHAIRMAN.

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.162/87.

Smt.Mariamamma George.

... Applicant.

V/s.

Wing Commander,  
Chief Administrative Officer,  
for Commanding Officer,  
No.26, A.F. Air Force Station,  
Thane - 400 607.

... Respondent.

CORAM: Hon'ble Vice-Chairman, Shri G.Sreedharan Nair,  
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Applicant by Mr.T.P.C.Nair.  
Respondent by Mr.R.K.Shetty.

Oral Judgment:-

Dated: 8.2.1990

¶Per Shri G.Sreedharan Nair, Vice-Chairman¶

The applicant was appointed as an Accounts Clerk-cum-Typist ~~for~~<sup>at</sup> the Service Institute maintained by the Air Force Unit at Thane by the order of the respondent dt. 11.8.1982. ~~His~~ services were terminated by the order dt. 28.10.1986. This application has been filed to quash the order of termination and for reinstatement in service.

2. The respondent has filed reply wherein a preliminary objection is taken that the application is not maintainable before this Tribunal as the applicant is not a Civil Servant. The relief for quashing the order of termination is also resisted by the respondents on the contentions advanced in the reply.

3. At the time of hearing, Counsel of the respondents pressed the preliminary objection with regard to the maintainability of the application. It was stated by him that the applicant not being a

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Civil Servant cannot maintain the application before this Tribunal. Though Counsel of the applicant attempted to establish that the applicant is actually a Civil Servant and that the application can well be maintained, on perusal of the relevant records we are of the view that the preliminary objection has to prevail.

4. Sub-section(1) of section 14 of the Administrative Tribunals Act confers jurisdiction on this Tribunal in respect of service matters concerning the member of any All India service, a person appointed to any civil service of the Union or any civil post under the Union, or a civilian appointed to any defence services or a post connected with defence.

5. The appointment of the applicant as Accounts Clerk-cum-Typist is in a Service Institute maintained by an Air Force Unit. No doubt the Wing Commander attached to the Unit is the Chief Administrative Officer of the Institute, but from the General Instructions of Non-Public Funds Organisation (Ex.'B') it is clear that the Air Force Non-Public Funds comprise of all funds other than Public Funds maintained by Air Force Stations and Units and that such funds are established to organise, administer and account for various welfare/service activities at Air Force Stations and Units, un-connected with public funds. The instructions specifically state that the service institute is a Non-Public Fund.

6. In the reply filed by the respondent it is asserted that the applicant was not paid her salary

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out of the Defence Budget or Public Fund and that she was being paid out of individual subscriptions and other ventures of the Institute.

7. Counsel of the applicant stated that since the applicant was appointed by the Wing Commander she has the status of the Civil Servant. When the appointment is for a post in the Service Institute run by Non-Public Fund, the fact that the Wing Commander in his capacity as the Administrative Officer of the Institute has issued the appointment order will not make the applicant a Civil Servant or the holder of a Civil post under the Union so as to attract Sub-section(1) of section 14 of the Administrative Tribunals Act. Counsel also invited our attention to the fact that the Accounts of the Institute are subjected to Government Audit. We are afraid, that again is not a ground to hold that an employee of the Institute, as the applicant, will assume the status of <sup>a</sup> person appointed to the Civil Services of the Union.

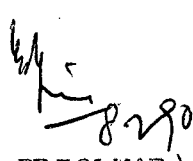
8. It is also worthy to note that there is no mention in the appointment order that the applicant will be governed by the rules applicable to Civil Servants. Counsel of the respondent produced before us for perusal a specimen appointment order relating to the appointment of Civil Servants in the <sup>Unit,</sup> ~~Union~~ where it is specifically provided that he will be subjected to the Discipline Rules under the provisions of the Central Civil Services (Classification, Control and Appeal) Rules/ <sup>1965</sup> and the Conduct Rules, 1964.

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Besides, in the order of appointment to the applicant it is stated that she will be entitled for a maximum of 15 days Casual Leave with full pay in a year and that the same will be availed of not more than 3 days at a time. That again goes against the normal service condition of a person appointed to the Civil Services of the Union as regards Casual Leave.

9. We hold that the application is not entertainable before this Tribunal.

10. The Registry will return the application and the documents produced along with the same to the applicant.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(G. SREEDHARAN NAIR)  
VICE -CHAIRMAN