

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 756/87

Transfer Application No:

DATE OF DECISION 2.6.1993

Shri Sanjay Yeshwant Parkar & Anr Petitioner

Shri R.V.Awati. Advocate for the Petitioners

Versus

Protector of Emigrants-1, & Ors Respondent

Shri P.M.Pradhan. Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble ~~Shri~~ MS. Usha Savara, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter 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 ?


(M.S.DESHPANDE)
VICE-CHAIRMAN

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY.

(M)

Original Application No.756/87.

Shri Sanjay Yeshwant Parkar & Anr.

.... Applicants.

V/s.

Protector of Emigrants-I, Bombay
and Others.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Ms.Usha Savara, Member(A).

Appearances:-

Shri R.V.Awati for the applicants.
Shri P.M.Pradhan for the Respondents.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 2.6.1993

The only point which arises for consideration is whether the applicant ^{can} claim the relief of declaration that the termination by the order dt. 31.8.1987 is illegal, unlawful and invalid.

2. Though the applicant stated that she came to be appointed in the year 1981 under a written letter of appointment specifying that she was to be appointed as LDC subject to passing the qualifying examination which was to be held by the department, no such document was produced. According to the applicant the department in which she was originally working was placed under the Ministry of Labour, but ~~her~~ services came to be discontinued. The letter dt. 31.1.1984 to which our attention has been drawn says that her appointment was to continue on ad hoc basis till regular appointments were made or up to 31.7.1984 whichever event occurs first. A qualifying examination was held in the year 1985, but the applicant was not allowed to appear in the said examination and her services were continued till 1987. The applicant appeared in the examination which was

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held on 8.3.1987, but failed, and her services came to be terminated w.e.f. 31.8.1987.

3. Shri P.M.Pradhan, learned counsel for the respondents invited our attention to the order passed in a group of Transferred Applications including Tr. Application No.56/86 (Writ Petition No.2251/85 before the High Court) in which a Bench of this Tribunal by its order dt. 24.9.1986 held that the applicants who were appointed on ad hoc basis were not entitled to appear at the examination, but made a direction that the applicants may be provisionally permitted to take the supplementary Special Qualifying Examination which was to be held in accordance with the department of Personnel and Training O.M. dt. 1.8.1986 and subject to the verification of their age and length of service (excluding the technical breaks). The applicants were allowed to continue till the declaration of the result of the examination. The applicant failed in that examination and in view of the directions given in the earlier Judgment she is not entitled to be continued further.

4. The grievance of Shri Awati, the learned counsel for the applicant was that others who have failed in the earlier examination were continued. All that was however, stated in the application was that there were instances that the ad hoc employees were given opportunity to appear for the Special Qualifying Examination held in 1982, 1983 and 1985 and did not succeed, but continued to be in employment and were regularised by the concerned departments. There is no reference to any of the persons who had failed in 1987 Special Qualifying Examination having been continued despite the failure and that the applicant being meted out with discriminatory treatment. In these circumstances the applicant cannot ~~xxxxxxx~~ base her claim under Article 16 of the Constitution of India.

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5. Since the applicant had already approached the Tribunal and had ^{-been-} granted relief and was ^{not} entitled to be continued in employment after failing in the Special Qualifying Examination she will not be entitled to any further consideration. Her termination was therefore valid and cannot be interfered with.

6. The applicant No.1 Shri S.Y.Parkar had withdrawn this application and we need not make any order regarding him.

7. The application is dismissed. There will be no order as to costs.


(USHA SAVARA) 6.53
MEMBER (A)


(M.S. DESHPANDE)
VICE-CHAIRMAN

B.