

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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O.A. NO: 108/87 199
~~xxxxxx~~

DATE OF DECISION 23.9.92

Mrs. Lilly Kunju Kutty Petitioner

Mr. S P Saxena

Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. P M Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S K Dhaon, Vice Chairman

The Hon'ble Mr. M Y Priolkar, 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 ?

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD; BOMBAY-1

QA No. 108/87

Mrs. Lilly Kunju Kutty
Lower Division Clerk
Controllerate of Inspection
Engineering Equipment
Aundh; Pune 411027

..Applicant

V/s.

1. The Secretary
Government of India
Ministry of Defence
New Delhi AND 8 others

..Respondents

Coram: Hon. Shri Justice S K Dhaon, V.C.
Hon. Shri M Y Priolkar, Member(A)

APPEARANCE:

Mr. S P Saxena
Counsel
for the applicant

Mr. P M Pradhan
Counsel
for the respondents

ORAL JUDGMENT:
(PER: S K Dhaon, Vice Chairman)

DATED: 23.9.92

The short question which is for consideration is whether the service rendered by the applicant as casual Lower Division Clerk (LDC) between 1.4.69 to 21.1.70 should be taken into account for fixing her seniority.

2. A reply has been filed on behalf of the respondents. ^{Rejoinder} ~~4~~ affidavit too has been filed. Counsel for the parties have been heard.

3. The material facts as admitted are these: On 1.4.69 the applicant was appointed as casual LDC and she continued to hold that appointment

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till 21.1.70. On that day she was declared surplus and with effect from 22.1.70 she was appointed as LDC on regular basis.

4. In the reply filed reliance has been placed upon a letter dated 26th September 1966 issued by the Government of India to the effect that service of non-industrial personnel should be converted into regular employees from the date of their initial employment, provided they are employed for more than one year without break in service. According to the respondents, the applicant had put in only 9 months and 22 days service. She could not get any benefit of the service rendered by her during the afore said period viz., 1.4.69 to 21.1.70. On the contrary the applicant relies upon a letter dated 24.11.67 of the Government of India, Ministry of Defence. In this letter there is a reference to the afore mentioned letter dated 26.9.66, in paragraph-1 of this letter it is clarified that the order mentioned in the letter dated 26.9.66 as amended by the corrigendum dated 6th March 1967 will also be applicable to such casual non-industrial employees who did not come within the perview of the classification of regular employees and also to those who are paid out of annual training and other similar grants.

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5. We may state here that the applicant's case is that she was paid out of the annual training grants. In paragraph 2 of the said letter it is stated that the past service rendered from the date of appointment by the casual industrial personnel will be treated as having rendered in regular service, and will be entitled to all benefits as per regular employees, such as fixation of pay, grant of advance increments etc., etc. In paragraph 6 of the said communication it is again stated that the casual service rendered by the casual employees will count for the purpose of giving all the benefits admissible to regular employees on their conversion as such.

6. Annexure R-6 to the reply is a copy of the communication dated 27.5.80 of the Government of India, Ministry of Defence, which is described as a corrigendum. According to this, a clarification was being issued with respect to communication dated 24th November 1967 to which we have already adverted to. According to this corrigendum, the period of service rendered as casual LDC will not be taken into account for determining seniority, probationary period and grant of quasi-permanent status. Reverting to the communication dated 24.11.67 we find that in paragraph 2 thereof no specific mention has been made about seniority. It mentions the benefits which would be available to the casual non-industrial personnel as per regular employees i.e., fixation of pay, grant of annual increments, calculation of leave, pension and gratuity, terminal benefits, children education allowance, reimbursement of tuition fee, HRA, TA, CCA, medical attendance, medical reimbursement etc. Reading the corrigendum as contained in the

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letter dated 24.11.67 together it becomes amply clear that for the purpose of computing seniority the service rendered by the applicant as a casual LDC shall not be taken into account.

7. We, therefore, come to the conclusion that the applicant is not entitled to any benefit. The application is dismissed, but without any order as to costs.


(M Y Priolkar)
Member(A)


(S K Dhaon)
Vice Chairman

X This para corrected vide Tor Doba
dtd 1-2-93 in RA 195/92.


22/2/93