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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No.710/87
T.A. No. ----

198

DATE OF DECISION 25-8-1992

Mrs. Nalini K. Athavale

Petitioner

Mr. Sanjay Mhalgi

Advocate for the Petitioner(s)

Versus

Union of India and ors.

Respondent

Mr. V. G. Rege

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?

MGIPRRND-12 CAT/86-3-12-86-15,000

N.D

S.K.DHAON
(S.K.DHAON)
VC

MD

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

BOMBAYO.A.710/87

Mrs.Nalini K.Athavale,
 Qtr.No.T-14-A,
 Sarvatra Vihar,
 MES Colony,
 Bombay-Pune Road,
 Khadki,
 Pune 411 003.

.. Applicant

vs.

Union of India and Ors. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
 Vice-Chairman

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

Appearances:

1. Mr.Sanjay Mhalgi
 Advocate for the
 Applicant.
2. Mr.V.G.Rege
 Advocate for the
 Respondents.

ORAL JUDGMENT: Date:25.8.1992
 (Per S.K.Dhaon, Vice Chairman)

The applicant retired as a Teacher in the Central Railway. She joined the Railways as Asstt.Teacher on 28.9.1974. She was duly recruited through the Railway Service Commission on an advertisement issued. Between 1.7.1965 to 26.9.1974 the applicant was employed with Zilla Parishad,Pune. The respondents have refused to take into account the services rendered by the applicant to the Zilla Parishad,Pune between 1-7-1965 to 26.9.1974 for the purpose of commutation of pension. Hence this application.

2. Reliance is placed by the applicant upon a communication dt. 31st March,1982 of the Govt. of India to the Secretary to the Government of Madhya Pradesh, Finance Department, Bhopal. The subject of the

communication is that:- "Allocation of pensionary liability in respect of Temporary service rendered under the Government of India and State Government." The crucial question to be determined by us is whether the applicant, at any stage, prior to 26.9.1974 was in the temporary service of the State Government. No material has been placed before us by the applicant showing that she was, in fact, an employee of the State Government. On the contrary, in the reply filed by the State Government it is categorically stated that even the Zilla Parishad had not issued any no objection certificate to the applicant before she joined Railways on 28th September, 1974. Since in the body of the application no averment had been made that the applicant was an employee of the State Government no occasion arose for the State Government to make any assertion either way. The material placed by the applicant goes to show that the Education Officer of the Zilla Parishad was taken into confidence by the applicant and he might have issued a no objection certificate.

3. Facts apart, the legal position too is that there is a distinction in law between the Zilla Parishad and the State Government. Zilla Parishad is creature of ~~statute~~, ^{and} it is a body corporate having ~~any~~ an independent existence, for administrative purposes it may be under the control of State Government. But that fact alone will not convert it into a state government.

(3)

-: 3 :-

O.A.710/87

4. We are unable to give any relief to the applicant. The application is dismissed with no order as to costs.


(M.Y.PRIOLKAR)
Member(A)


(S.K.DHAON)
Vice-Chairman

MD