

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 577/87

198

Tx~~xxx~~BoxDATE OF DECISION 6.4.92

Smt. N G Bapat Petitioner

Mr. B Ranganathan Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

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

CORAM :

The Hon'ble Mr. Justice U C Srivastava, 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

V.C.

(2)

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

OA NO. 577/87

Smt. N G Bapat
Bapat Wada
Brahmanpuri
Miraj 416410

..Applicant

V/s.

1. District Telecommunication
Engineer; Sangali
2. General Manager
Telecommunication
Maharashtra Circle
Bombay
3. Union of India
through General Manager
Telecommunication
Maharashtra Circle;
Bombay

..Respondents

Coram: Hon. Shri Justice U C Srivastava, V.C.
Hon. Shri M Y Priolkar, Member (A)

APPEARANCE:

Mr. B. Ranganathan
Advocate
for the applicant

Mr. P M Pradhan
Counsel
for the respondents;

ORAL JUDGMENT:
(PER: U C Srivastava, Vice Chairman)

DATED: 6.4.1992

The applicant was appointed as Telephone Operator in March 1964. In the year 1979 while she was working as such the applicant was granted No Objection Certificate for the purpose of meeting her parents in foreign countries for two years i.e., upto 31.8.1981. The applicant asked for one more year extra ordinary leave on the same ground and finally joined her duties on 16.8.82, and remained on duty only for 15 days and thereafter applied for invalid pension which was not accepted by the department.

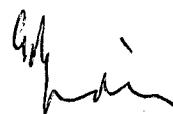
She obtained a certificate of Civil Surgeon, Sangli that she is incapacitated.

Thereafter ~~vide~~ impugned order dated 10.12.1985 was passed. The applicant, according to the respondents, has ~~on~~ her own approached the Civil Surgeon for issue of certificate of incapacitation and has not ~~followed~~ the procedures for such purpose. Instead of approaching the appointing authority she directly addressed a letter to the General Manager in this behalf. Vide 10.12.1985 the applicants services were terminated and no invalid pension as claimed by the applicant was ~~granted~~.

On behalf of the applicant it was contended that the applicant was prepared to join the duties as she is medically found fit, she is still prepared to join her duties, and hence her services could not have been terminated on this ground without holding an inquiry, and the termination order passed in these circumstances is arbitrary.

As the facts are, the applicant from the year 1979 became interested in staying in foreign country on one or the other ground after coming back to India, though not in time, after 15 days again made an attempt to go abroad. Whatever may be the position before terminating the services some inquiry should have been held only thereafter her services could have been terminated. Her services are transferable as has been stated by the learned counsel for the respondents. Notwithstanding the fact that the applicant herself is responsible for absence and for ~~all~~ that has happened. But that does not exonerate the responsibility respondents ~~from~~ following the rules for terminating the services.

Accordingly so far as the termination order is concerned that cannot be allowed to stand and the termination order is quashed. However, it will be for the respondents to treat the entire period of absence as diasnon. No observations are made in this behalf. It is for the employer respondents to transfer the applicant anywhere and hold departmental enquiry against her. With these observations the application is disposed of with no order as to costs. It is not necessary to consider the plea of the applicant for invalid pension as it has been stated on behalf of the applicant that the applicant wants to serve in this country itself.



(M Y PRIOLKAR)
MEMBER (A)



(U C SRIVASTAVA)
VICE CHAIRMAN