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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

O.A. 549/88

Mrs. Mary Cherian
Room no.1, Saraswati Niwas
New Jimmy Baug, Kalyan East
Dist. Thane 421306

Applicant

V/s.

1. Union of India

2. Deputy Chief Controller of Explosives
West Zone, Industrial Assurance Building,
Churchgate, Bombay 400020

Respondents

Coram : Hon'ble Vice Chairman Shri B C Gadgil
Hon'ble Member(A) Smt. J.A. Dayanand

Appearance:

Shri S. Natarajan
Advocate
for the applicant

Shri Masulkar
Advocate
for the respondents

ORAL JUDGMENT

DATE : 10.8.88

(PER: B C Gadgil, Vice Chairman)

Heard Mr. Natarajan, Advocate for the applicant
and Mr. Masulkar, Advocate for the respondents.

2. In our opinion this application deserves to be
summarily dismissed for the following reasons.

3. The applicant was appointed as Lower Division
Clerk in the office of the Deputy Chief Controller of
Explosives, Bombay with effect from 5.1.1980. Her
services are being terminated by issuing a notice dated
1.7.1988 (Exhibit B, Page 13 of the application). It
is this order that is being challenged before us.

4. It is true that the applicant has put in 8 years
of service. However, the main hurdle in the way of the
applicant is that she has not been able to pass the
examination held by the Staff Selection Commission.
Ordinarily a person is entitled to an employment only
after passing such examination. However, the applicant

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was appointed on ad hoc basis, though she has not passed such examination. The question has arisen as to what should be done with respect to such employees and the Government has taken a decision that Special Qualifying Examination should be held so that such ad hoc appointees can take advantage of that examination. Obviously persons passing such examination were ~~decided~~ to be regularised. The applicant appeared for such Special Qualifying Examinations held in 1983; 1985 and 1987. Unfortunately she failed in each of these examinations. The effect of such failure has been considered by the Principal Bench of the Central Administrative Tribunal in its judgment dated 2.2.1987 in O.A. Nos. 1193/86 and 1194/86. The Principal Bench has held that the employees appointed on ad hoc basis should qualify themselves in the Special Qualifying Examination and if they failed they cannot be continued in service. Relying upon this judgment we feel it will not be possible for us to admit the application.

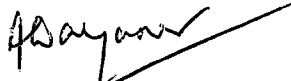
5. Mr. Natarajan drew our attention to a short note of the judgment delivered by Bangalore Bench of CAT on 26.2.1987 in application no.1504/86. The said short note appears in 1988(II)SLJ(CAT)464. He also relied upon short note of another judgment of the Supreme Court in Writ Petition no.822/87 decided on 24.9.87. This note appears in 1(1988)ATLT/SC SL-6. Apart from the fact that the full judgments are not made available to us, we may observe that the short notes as mentioned in the above reports would not help the applicant. For example, in the case before the Supreme Court the applicant was appointed as a Medical Officer on ad hoc basis. He was threatened with termination of service. The Supreme Court has passed an order that the services shall be regularised in consultation with the UPSC on the evaluation of the work and conduct on the basis of Confidential Reports of the applicant. In the present case the Government has made a similar provision by holding Special Qualifying Examination. The applicant

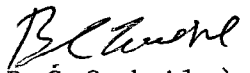
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appeared in three such examinations and ~~ultimately~~ she failed ~~in all the three~~.

6. The decision of the Bangalore Bench as disclosed by the short note shows that there was no stipulation to pass any suitability test in the appointment order and that therefore it was not necessary for the applicant to appear for the examination. In our opinion this judgment of the Bangalore Bench would not be of any use.

7. The net result, therefore, is that the application fails and is disposed of summarily and the interim relief passed by us stands automatically vacated.


(Smt. J.A. Dayanand)
Member(A)


(B C Gadgil)
Vice Chairman