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

0.A.96/88

Kum. Pratibha Shashikant Kulkarni
Devi Mandir
Ward No.6
Shrirampur
Dist. Ahmednagar

Applicant

V/s.

1. Union of India
through Post Master General
Bombay

2. Superintendent of Post Offices
Shrirampur Division
Shrirampur 413709

Respondents

Coram : Hon'ble Vice Chairman B C Gadgil
Hon'ble Member(A) L H A Rego

Appearance:

Shri G K Masand
Advocate
for the Applicant

Shri S R Atre
(for Shri P M Pradhan)
Advocate
for the Respondents

ORAL JUDGMENT
(PER: B C Gadgil, Vice Chairman)

DATED : 8.4.88

The applicant who was working as Clerk in the Postal department has made a grievance about the termination of her service on 31.12.1987.

2. A few facts would be relevant in considering the grievance of the applicant. The applicant was employed as a Postal Assistant (LDC) on 11.4.1983, on a hypothesis that her birth date was 19.11.1963 and she was more than 18 years at the time of employment. However, subsequently it came to the notice of the department that the birth date as entered in the SSC certificate is 19.11.1965. With this birth date the applicant would have been less than 18 years of age and hence the department terminated her services. The applicant claims that this termination is bad.

3. The respondents have resisted the application by filing their reply. It was stated at the time ~~time~~

B.C.G.

when the applicant was employed as Postal Assistant, her father made an affidavit stating therein that the birth date of the applicant is 19.11.1963 and that on the ^{absis} of this affidavit, the department has recruited her as Postal Assistant. The respondents further contend that this birth date as given by the father is incorrect as the SSC certificate and the School Leaving Certificate give her birth date as 19.11.1965. The respondents, therefore, contend that the services of the applicant were terminated as the applicant was not eligible for employment on account of her age being less than 18 years.

We have heard Mr. Masand for the applicant and Mr. S R Atre (for Mr. P.M. Pradhan) for the respondents. It is true that the record is as it stands shows that the birth date of the applicant is 19.11.1965. Consequently, the applicant could not have been recruited on 11.4.1983 as a Postal Assistant as her age was less than 18 years. During the course of the hearing we made enquiries with the respondents as to whether there are any shortcomings in the rendering of ^{the} service by the applicant and we were told that there is no such shortcoming and that the work of the applicant is quite satisfactory.

The question is as to ^{whether} ~~where~~ the services of such satisfactory performance should come to an end because the father of the applicant has given an incorrect affidavit. Mr. Atre submitted that the employment itself would be illegal as nobody can enter ~~a~~ Government service at an age less than 18 years. This appears to be the position. However, the satisfactory service of the applicant is a point in her favour and we think that the interests of justice will be met, if we direct the respondents to give a fresh appointment to the applicant as Postal Assistant. Of course the service rendered by the applicant from 1983 to 1987 will not be taken into account for any purpose. Hence we pass the following order.



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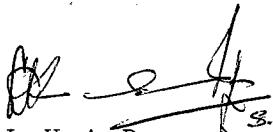
ORDER

The application partly succeeds.

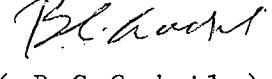
The respondents are directed to give a fresh appointment to the applicant as Postal Assistant on the minimum of the time scale. We make it specifically clear, that the service rendered by the applicant from 11.4.1983 to 13.12.1987 should not be taken into account for any purpose whatsoever.

This order should be complied within a period of one month.

Parties to bear their own costs of the application.


(L H A Rego) 3.4.1988

Member (A)


(B C Gadgil)
Vice Chairman