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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 565/88

198

~~T.A. No.~~

DATE OF DECISION 31.8.1990

Ku.Anita Janardanan Memon alias **Petitioner**
~~Smt.Anita Satish Nair.~~

Mr. E.K.Thomas Advocate for the Petitioner (s)

Versus

Union of India and others Respondent

Mr. V.S.Masurkar Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, 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 ?

[Signature]

(6)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

Original Application No. 565/88

Kumari Anita Janardanan Memon
alias Smt. Anita Satish Nair

.... Applicant

Vs.

Union of India
and Others

.... Respondents

Appearance :

Mr. E.K. Thomas,
Advocate for the
applicant

Mr. V.S. Masurkar,
Advocate for the
respondents.

Coram : Hon'ble Shri G. Sreedharan Nair, Vice-Chairman.

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

JUDGMENT

DATED: 31.8.1990

(PER : M.Y. Priolkar, Member (A))

The grievance of the applicant in this case is that her services as Short Duty Telephone Operator were terminated by order dated 6.10.1987 by the Assistant General Manager, Mahanagar Telephone Nigam Ltd., Bombay on the ground that the Secondary School Certificate furnished by her was not acceptable.

2. The facts, which are not in dispute, may be briefly narrated. Pursuant to advertisement in a local newspaper dated 15.2.1983, the applicant applied for the post of Telephone Operator in the erstwhile Bombay Telephones. The educational qualification required was "a pass in Matriculation or equivalent examination recognized by a University and Board". After passing the necessary tests, she was selected and sent for training in Basic-Course for 13 weeks as Telephone Operator, which she successfully completed on 7.12.1984. Thereafter, the applicant

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was recruited against Reserved Trained Pool of Telephone Operators and worked as Telephone Operator at Prabhadevi Telephone Exchange from 7.12.1984 to 6.10.1987, when her services terminated.

3. The reason given in the order dated 6.10.1987 for terminating her services with immediate effect was that the Secondary School Certificate furnished by her was not acceptable, as the "Central Board of Higher Education", New Delhi, was not recognised by the Education Ministry for the purpose of employment under the Central Government and hence her selection was not in order.

4. The applicant contends that the requisite educational qualification being a pass in Matriculation or equivalent examination recognised by a University or Board, the respondents are duty bound to accept the High School Certificate issued by the Central Board of Higher Education, New Delhi which is recognized by many Universities and Boards, for the purpose of employment as well as higher studies. She also alleges that the respondents did verify her High School Certificate twice, first, ~~by~~ when the certificates were sent along with the application for the job and secondly, at the time of appointment. The applicant states that now after she has spent almost three years on duty, the respondents should be estopped from contending that the qualification is not acceptable.

5. In their written reply, the respondents have stated that after the applicant was selected and, on successful completion of training, asked to work as Short Duty Telephone Operator in the Reserve Pool, a reference was made by them to Secretary, Ministry of Education and Social Welfare, New Delhi enquiring whether High School Examination conducted by the Central Board of Higher Education, New Delhi, was recognised as equivalent to

pass in Matriculation and intermediate examination of any other recognised University. In its reply dated 19.12.1985, the Ministry of Human Resources Development (Development of Education), New Delhi, had clarified that neither the Central Board of Higher Education, New Delhi, nor the examinations conducted by it are recognised by the Government of India for purpose of employment and for higher studies. The Ministry had also sent copies of their press note dated 3.2.1980 and a circular dated 15.10.1982 sent to the State Government informing that the Central Board of Higher Education was not an institution recognised by Government and advising the State Governments to bring this position to the notice, among others, of all the educational institutions in the State. The respondents state that they are bound to follow the instructions of Government of India in this regard and, therefore, the applicant's services as Reserve Telephone Operator were terminated on 6.10.1987.

6. It is not the case of the respondents that the applicant had secured employment by dishonest means or by suppressing any information which she was required to disclose at the time of her appointment. Their only reason for the termination of the applicant's services is that her selection was not in order as the Central Board of Higher Education, New Delhi is not recognised by the Education Ministry for the purpose of employment under Central Government. This is however not what was required as educational qualification under the advertisement inviting applications from eligible candidates for these posts. The advertisement (Annx. I) merely stipulated a pass in Matriculation or equivalent examination recognised by a University or Board. Among the several documents annexed to the rejoinder filed by the applicant for establishing ~~the~~ that the High School Examination of the

Central Board of Higher Education, New Delhi is recognised by any University or Board, there is only one document which directly meets this requirements. This is the copy of letter dated 4.1.1958 from the Registrar of Gauhati University addressed to the Director of Public Instruction, Assam, informing that the Matriculation and certain other examinations of the Central Board of Higher Education, New Delhi, have been recognised as equivalent to the corresponding examinations of the Gauhati University on a reciprocal basis. Since the educational qualification prescribed in the advertisement is thus satisfied, the applicant's selection cannot now be called in question on the basis that the Central Board of Higher Education was not recognised for the purpose of employment under Central Government, since such a condition had not been mentioned in the advertisement.

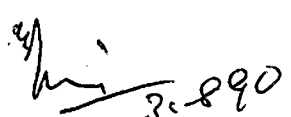
7. The learned Counsel for the respondents argued that the advertisement was not a notification and the qualification are not precisely stated therein, but it was the intention all along that the minimum educational qualification required was a pass in Matriculation or equivalent examination of a University or Board recognized for purposes of employment by the Central Government. We are unable to agree with this contention. The sanctity of advertisement issued by Government has to be maintained by not deviating from the terms and conditions mentioned in the advertisement after the selection process is completed and even appointments are made. It will be grossly unfair to the candidates if after being tested, selected, trained and appointed, their services are terminated on the ground that their selection was not in order for the reason that certain requirements were not fulfilled by them, though these had not been

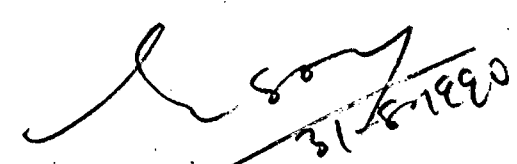
indicated in the advertisement.

8. Considering the fact that the applicant had passed the necessary selection tests, had undergone training for 13 weeks and had also worked satisfactorily as a Telephone operator for about three years, we feel that it will be unjust to deprive her of the post at this stage. However, since the letter of the University of Gauhati dated 4.1.1958 certifying the recognition of the Central Board of Higher Education is over 22 years old, it may be desirable for the respondents to verify that such recognition was continuing at the time the applicant was selected for the Reserve Trained Pool of Telephone Operators. Such a confirmation is desirable, particularly in view of the circular dated 15.10.1985 stated to have been sent to State Governments by the Ministry of Human Resources Development (Department of Education) advising them that the examinations conducted by the Central Board of Higher Education are not recognised by the Central Government for purposes of employment and higher studies. It was mentioned in that circular that employers/educational institutions and the general public are misled by the name of this institutions being similar to the Central Board of Secondary Education which is a Government recognised examining body. This was asked to be brought to the notice of all the employing agencies of the Government and all educational institutions of the State. It is possible that the contents of this circular were accordingly brought to the notice of the Gauhati University, which in turn, might have reconsidered its decision of recognition of the examinations conducted by the Central Board of Higher Education, New Delhi.

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9. In the circumstances, we direct the respondents to re-instate the applicant in her post of Short Duty Telephone Operator, with consequential benefits from 7.12.1987, latest within a period of four months from the date of receipt of a copy of this order, unless, within this period, the respondents secure documentary evidence that the Gauhati ^{University} ~~Ministry~~'s recognition of the examination conducted by the Central Board of Higher Education was not in force at the time of the applicant's selection for this post. There shall be no order as to costs.


(M.Y. Priolkar)
Member (A)


(G. Sreedharan Nair)
Vice-Chairman