

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

TRANSFERRED APPLICATION NOS. {1} 132/1986
{2} 308/1986

(1) - T.A. No. 132/1986;

Union of India
(General Manager,
Central Railway,
Bhusawal)

Applicant
(Original Review
applicant)

V/s.

Mrs. Caroline M. Dickson

Respondent
(Original defendant)

(2) - T.A. No. 308/1986

Mrs. Caroline M. Dickson
La Belle Villa
Tapti Road
Bhusawal
Jalgaon (Dist.)

Applicant
(Original Plaintiff)

V/s.

1. The Union of India
through General Manager
Central Railway, Bhusawal
2. The Divisional Manager
Personnel Branch, Bhusawal

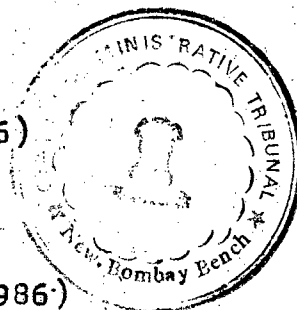
Respondents
(Original Defendants)

Coram: Hon'ble Vice Chairman B.C. Gadgil
Hon'ble Member(A) J.G. Rajadhyaksha

Appearances:

Mr. M.B. Palshikar
Advocate
for the Applicant (in TA No. 308/1986)

Mr. S.R. Atre
(for Mr. P.M. Pradhan)
Advocate
for the Respondents (in TA No. 308/1986)



ORAL JUDGMENT

Dated: 19.6.1987

(PER: B.C. Gadgil, Vice Chairman)

Original Civil Revision Application No. 37/86 of the file
of the High Court of Judicature of Bombay has been trans-
ferred to this Tribunal for decision. Similarly,
Original Regular Civil Suit No. 411/80 on the file of



the Joint Civil Judge, Senior Division, Jalgaon, is transferred to this Tribunal for decision and the same is numbered as Transferred Application No.308/1986.

2. The jurisdiction of the Civil Judge Senior Division Jalgaon was challenged by the Union of India etc. The Civil Judge ruled that he had jurisdiction. The Government of India went to the High Court in a Civil Revision Application which has now come to us for decision, as mentioned. The question of Civil Court's jurisdiction does not survive with the transfer of the suit to this Tribunal.

3. The applicant (original Plaintiff) was appointed as a Substitute Teacher on temporary basis in the grade of Assistant Teacher in the Central Railway Primary School (English Medium) at Bhusaawal on 27.7.1974. She resumed her duties on 30.7.1974. On 4.8.1980, her services were terminated by an order (Exhibit 21). The termination was to take effect from 5.9.1980. It is this order that was challenged by filing the suit in question.

4. The main contention of the respondents is that at the time when the applicant was appointed as a teacher she did not possess the requisite qualification i.e., Diploma in Education (D.Ed) and that it is on this ground that her services have been terminated.

5. We have heard Mr. Palebiker for the applicant and Mr. S.R. Atre (for Mr. P.N. Pradhan) for the respondents.

6. In 1974, the applicant was possessing the educational qualifications as S.S.C. & S.T.C. (Secondary Teachers' Certificate). It is true that the minimum qualification for Assistant Teacher is that the applicant must hold a Diploma in Education. In the absence



of such educational qualifications it is very difficult for Mr. Palshikar to contend that the action of the department in trying to terminate the services of the applicant would be bad. He, however, urged that the events that have happened subsequent to the filing of the suit may be taken into account for the purpose of rendering justice to the applicant. It appears that the Civil Court granted an interim relief order whereunder the termination of service was stayed. That order is in force even now, and the applicant is in the service of the Railway School. In 1984, the applicant has passed the examination of Diploma in Education. It was contended by Mr. Palshikar that this acquisition of educational qualifications in 1984 may be taken into account and appropriate relief be granted to the applicant.

7. Mr. Atre for the respondents urged that the applicant was initially not eligible for appointment and that, therefore, the termination order is good. Technically, this position would be correct. However, we cannot forget the fact that the applicant has been working as an Assistant Teacher from 1974 till to-day. Not only that, but even prior to 1974 she has worked as a Teacher from 1963 onwards in some institutions. Added to these, there is one circumstance viz., that the applicant has now acquired the minimum educational qualification of Diploma in Education. In our opinion, in the peculiar facts of this case, the interests of ~~the~~ justice would be met if an appropriate order directing the respondents to regularise the applicant in the service as an Assistant Teacher from 1984 is passed adding that she should also now be treated as possessing the age, qualification as well. Of course, such regularisation would not take away the increments

which the applicant must have earned from 1974 onwards.

Hence we pass the following order :

ORDER

- 1) The application is partly allowed
- 2) The respondents are directed to regularise the appointment of the applicant as an Assistant Teacher from 14th July, 1984 relaxing the age qualification on that date. It is made specifically clear that though the increments for the earlier service should not be disturbed, still the applicant should get seniority from 14.7.1984 and not from any earlier date.
- 3) Parties to bear their own costs.



(B.C. Gadgil)
Vice Chairman

(J G Rajadhyaksha)
Member (A)

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[Signature]
SECTION OFFICER
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