

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 238 of 1986.  
T.A. No. -

DATE OF DECISION 18-9-1987

Kum. Nalini Vinayak Pathak Petitioner  
(Now Mrs. K.V. Nakanekar)

Mr. V.B. Raikar Advocate for the Petitioner(s)

Versus

Railway Primary School Respondent  
Nandurbar, Maharashtra.

Mr. A.L. Kasturey Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. J.G. Rajadhyaksha, Member (A)

The Hon'ble Mr. M.B. Mujumdar, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH

Original Application No.238/86.

Kum.Nalini Vinayak Pathak,  
(Now Mrs.K.V.Nakanekar)  
Ganapati Road,  
Nandurbar,  
Dist.Dhule

.. Applicant

Vs

1. The President,  
Railway Schools and  
Senior Divisional Personnel Officer,  
Western Railway,  
Bombay Central,  
Bombay - 400 008.

2. Shri E.R.Holkar,  
Assistant Teacher,  
Railway Primary School,  
Nandurbar,  
Maharashtra.

.. Respondents.

Coram: Hon'ble Member (A) Shri J.G.Rajadhyaksha.  
Hon'ble Member (J) Shri M.B.Mujumdar.

Appearances:

1. Shri V.B.Rairkar,  
Advocate for the  
applicant.
2. Shri A.L.Kasturey,  
Advocate for the Respondents.

ORAL JUDGMENT  
(Per M.B.Mujumdar, Member (J))

Date: 18-9-1987.

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 challenging the order dt.19-2-1986 by which her appointment as Substitute Teacher is terminated.

2. By a letter dated 6-9-1985 the applicant was appointed as Temporary Asstt.Teacher, in the scale of Rs.330-560 plus allowances. We are not concerned with the conditions mentioned in that letter. By another letter dtd. 30-4-1986 it was clarified that the applicant was appointed as Substitute Asstt.Teacher and not as Temporary Asstt.Teacher, as erroneously stated in the letter dated 6-9-1985. However,

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in the meanwhile, by an order dated 19-2-1986, which is challenged before us, the applicant's services were terminated with effect from 20-2-1986 (A/N) giving her 14 days salary in lieu of notice period because she was rendered surplus due to the regular candidate being available.

3. It is the case of the respondents that in pursuance to an advertisement dtd. 22-1-1983, 303 applications were received. Subsequently, selection was held on 1-6-1984 and the panel was issued on 22-12-1984. In that panel the applicant was placed at Sr.No.1 under the category of 'Marathi Medium-Substitute'.

4. Mr. Raikar, who argued the matter before us on behalf of the applicant, submitted that the letter by which it was clarified that the applicant was appointed as Substitute Assistant Teacher was wrong and unjustified. Hence we have seen the original proceedings by which the selection was made. The Selection Committee consisted of President, Railway Schools and Divisional Personnel Officer as Chairman and Divisional Electrical Engineer and ~~Sr.~~ Commercial Officer as Members. From the proceedings, it is clear that different panels were prepared and three persons were selected in the panel under the category 'Marathi Medium-Substitute'. In that panel, the name of the applicant appears at Sr.No.1. Hence there is no scope for holding that the applicant was appointed as Temporary Asstt. Teacher and not as Substitute Asstt. Teacher. In this view of the matter as the applicant's <sup>was</sup> appointment as a substitute, her services were liable to be terminated when she was declared surplus when a regularly appointed person was available.

5. The applicant has challenged the qualifications of Respondent No.2 who was transferred to Nandurbar Asstt. Teacher. His transfer rendered the applicant's appointment

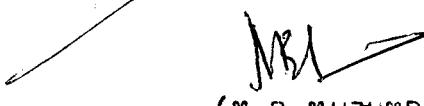
as surplus. But in the present case we are not concerned with the qualifications of Respondent No.2 for the post in question because that is a matter for the administration to decide. We are satisfied that the applicant was appointed as Substitute Asstt.Teacher and she had no right to claim continuance of her service after she was found surplus.

6. Mr.Raikar submitted that the applicant had not really become surplus but by malafides she was shown as surplus by bringing Respondent No.2 to Nandurbar in her place. We find no material in support of this contention and hence we hold that this submission is devoid of any merit.

7. Then Mr.Raikar relied on paragraph 8 in the letter dated 24-6-1982 which the Respondents have attached at Ex.1 to their written statement. That paragraph shows that the substitutes duly selected by the Committee need not appear for selection in regular vacancies and may be promoted as and when vacancies arise in the Division, strictly in their seniority as substitutes. We were told on behalf of the respondents that no vacancy has arisen since the applicant's service were terminated. We trust that if any vacancy arises, the respondents shall consider the case of the applicant in accordance with the instructions in that para.

8. With these observations we dismiss the application, with no order as to costs.

  
(J.G. RAJADHYAKSHA)  
Member (A)

  
(M.B. MUSUMDAR)  
Member (J)