

CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
CIRCUIT AT NAGPUR

O.A. 872 of 1990

Present : Hon'ble Mr. A.P.Bhattacharya, Judicial Member  
Hon'ble Mr. P.S.Chaudhuri, Administrative Member

SMT. NIRMALA DEVI

VS

UNION OF INDIA & ORS

For the applicant : Mr. M.M.Sudame, counsel

For the respondents : Mr. Ramesh Darda, Govt. counsel

Heard on : 18.3.91 : Order on : 20.3.91

O R D E R

A.P.Bhattacharya, J.M.:

This application under section 19 of the Administrative Tribunals Act, 1985, has been filed by Smt. Nirmala Devi against the Union of India, represented by the Chairman, Ordnance Factories Board and the General Manager, Ordnance Factory, Bhandara.

2. In 1976, pursuant to an advertisement for selection to the post of Teacher in Ordnance Factory School, Bhandara, the applicant made an application. She was called for the interview on 8.11.76. She was successful in the said interview. Ultimately by an order passed on 30.9.81, she was appointed to the post of Lower Division Clerk (LDC). The applicant states that although she applied for the post of Teacher and was interviewed for that post, she was appointed to the post of LDC. It is her case that though she was appointed as LDC, her service was utilised as a Teacher. Subsequently, in July, 1982 and January, 1983, she was interviewed again for selection to the post of Teacher. The applicant contends that although she was

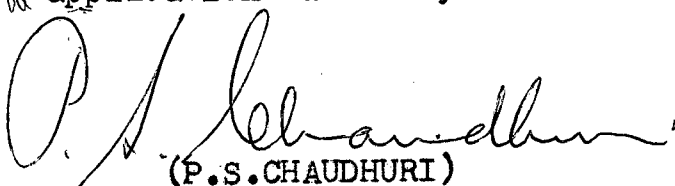
successful, no order was ever issued appointing her to the post of Teacher. She made several representations which yielded no result. So, in filing the application she has prayed for issuing direction on the respondents so that they may appoint her to the post of Teacher with effect from 9.2.82 i.e. the date when she was appointed as a LDC. She <sup>has</sup> also prayed for directing the respondents to pay her all pay and allowances consequential to her appointment as <sup>a</sup> Teacher from 9.2.82.

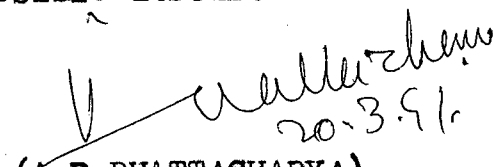
3. The admission of the application has been contested by the respondents.

4. This applicant had previously filed an application before this Tribunal which was numbered as O.A. 642 of 1990. From Annexure-IX to the application, we find that the said application was disposed of with a direction on the respondents to consider her representation and dispose of the same by a speaking order. Annexure-XI shows that by a speaking order the representation submitted by the applicant was disposed of by the Dy. General Manager, Ordnance Factory, Bhandara on 20.11.90. Being aggrieved by that order, the applicant has filed the instant application before this Tribunal.

5. Admittedly, in 1976 the applicant was interviewed for selection to the post of Teacher and she was given attestation forms. Ultimately as no vacancy of Hindi Teacher/Primary was available, she could not be appointed to such post. The applicant is a handicapped person. 1981 was declared as the year for the physically handicapped persons. The respondents made an endeavour in that year to give employment to some physically handicapped persons. On their requisition, the name of the applicant was sponsored by the Employment Exchange. At that time, the applicant was offered the post of LDC and attestation forms were issued by <sup>a</sup> letter, dated 30.9.81. It was made clear to her that she would be appointed to the post of LDC and if she was agreeable to accept such post, she would fill in the attestation forms. Knowing it full well, the applicant filled in the attestation forms and subsequently accepted the offer of

appointment as LDC. Considering the handicap, the applicant had, she was all along posted at an office inside the Ordnance Factory at Bhandara. Thereafter, she was sent from AE office to a school where her services were utilised as LDC and partly as a teacher. The applicant was appointed as a LDC on 9.2.82. Afterwards, she appeared in an interview in which she was found not suitable. Working in <sup>that</sup> post for about six years, she had never raised her little finger and all of a sudden she lodged her claim to the post of teacher. The directions given by the Tribunal in disposing of her earlier application had duly been complied with by the concerned authority by passing a speaking order on 20.11.90. It is the main contention of the respondents that as there is no vacancy to the post of Teacher to accommodate her, she will have to continue in the post of LDC and as and when a vacancy to the post of Teacher would arise, her case would be duly considered. The claim of the applicant is a curious one. The post of LDC cannot by any stretch of imagination be equated with the post of Teacher/Primary. The scales of pay of these two posts are not the same. Merely because the applicant was interviewed initially for the post of teacher, she cannot <sup>be</sup> said to have any vested right to that post. At the time of offering her appointment to the post of LDC, it was made clear to her that such offer would not confer on her any right to the post of teacher. Accepting that condition, she joined the post of teacher. The applicant's tall claim of this nature cannot be entertained by a court of law. So, considering all, we are of opinion that the present claim of the applicant being wholly misconceived, is liable to fail. Accordingly, we dismiss this application summarily at the stage of admissibility <sup>on</sup> ~~the~~ itself.

  
(P.S. CHAUDHURI)  
MEMBER (A)  
20.3.91

  
(A.P. BHATTACHARYA)  
MEMBER (J)  
20.3.91