

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESCOT RD., 4TH FLR.,

MUMBAI - 400 001.

REVIEW PETITION NO. (N) 15/96 in

ORIGINAL APPLICATION NO: 329/92.

DATED THIS 19th DAY OF MARCH, 1997.

CORAM : Hon'ble Shri B.S. Hegde, Member (J).

Hon'ble Shri M.R. Kolhatkar, Member (A).

Ku. Vanadana Jagannath Kharbade ... Applicant.

V/s.

1. Government of India,  
Ministry of Finance,  
Through its Secretary,  
New Delhi.

2. Central Board of Direct Taxes,  
New Delhi through its Secretary,  
Central Board of Direct Taxes,  
North Block,  
New Delhi - 110 001.

3. National Academy of Direct Taxes,  
Chhindwara Road, Nagpur,  
through its Asstt. Director.

... Respondents.

I TRIBUNAL'S ORDER BY CIRCULATION X

The applicant has filed this review petition seeking review of judgement dated 18/10/96 in O.A. No.329/92.

The OA was disposed of after hearing both the parties and ~~per~~sonal of the records. Admittedly, the applicant was working on Contract basis and has not been posted in a clear vacancy or to the post of Assistant Librarian. In the OA, she is seeking regularisation to the post of Assistant Librarian without being recruited in accordance with the rules, and accordingly her termination order has been challenged in the OA. She has challenged the examination of Staff Selection Commission held in 1991 wherein she had failed to qualify and therefore the question of continuing her services further never arose.

2. In the review petition, the only contention raised by applicant is that the duties given to the applicant

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are all relating to work of a Librarian and the job requirement for the post of librarian given in the advertisement to fill up the two posts are the same as those given to the applicant. There were two vacant posts of Assistant Librarian in 'N.A.D.T.' as seen from the advertisement in Employment News and she has been working against one post on a daily wage basis., therefore she is asking for wages to the post of Assistant Librarian on the principle of equal pay for equal work, etc.

3. It is a settled principle of law, the cardinal principle to regularise an adhoc employee is that he/she must have qualified in the selection test to become suitable for the post. When the mode of selection and appointment to a post is required by the rules to be made in a particular manner, it cannot be filled up by resorting to a process which is contrary to the statutory mandate. This, however, does not preclude stop-gap arrangements being made on temporary and ad hoc basis pending regular recruitment in accordance with the statutory rules or having regard to other exigencies of service.

4. In the instant case, since the applicant having not posted in a clear vacancy, there is no question of she being regularised and she could not qualify in the Staff Selection Commission Exam, therefore the question of continuing her services further does not arise. Therefore, the termination order cannot be faulted with. No case has been made out by the applicant in the review petition for re-consideration of the case again. The power of review can be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by her at the time of disposal of the OA.

5. In the light of the above, we do not see any merit in the review petition and the same is dismissed.

M. R. Kolhatkar

(M. R. KOLHATKAR)  
MEMBER (A)  
abp.

B. S. Hegde

(B. S. HEGDE)  
MEMBER (J)