

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 694/92 199
T.A. NO: -

DATE OF DECISION 2-11-1992

Mrs. Remagirijan

Petitioner

Mr. S.P. Saxena

Advocate for the Petitioners

Versus

UNION of India and ors.

Respondent

Mr. J.P. Cama with Mr. K.P. Anilkumar

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K.Dhaon, Vice-Chairman

The Hon'ble ~~Max~~ Ms. Usha Savara, 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 ?

No

MD

Sy
(S.K.DHAON)

mbm*

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.694/92

Mrs. Remagirijan,
9/3, Type III (Siporex RHE)
Range Hill Estate,
Pune - 411 020. .. Applicant

-versus-

1. Union of India,
through
The Secretary,
Ministry of Science & Technology,
New Delhi - 110 011.
2. The Director General,
C.S.I.R.
Raji Marg,
New Delhi - 110 011.
3. The Director
National Chemical Laboratory,
Pashan,
Poona - 8.
4. The Director
Mechanical Engineering
Research & Development
Organisation,
Pashan, Poona - 8. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

Hon'ble Ms.Usha Savara, Member(A)

Appearances:

1. Mr.S.P.Saxena
Advocate for the
Applicant.
2. Mr.J.P.Cama
with
Mr.K.P.Anil Kumar
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 2-11-1992
(Per S.K.Dhaon, Vice-Chairman)

The applicant, a Lower Division Clerk, has come to this Tribunal by means of this application with the complaint that, even though she has been employed by the National Chemical Laboratory since 15-7-1983 with artificial breaks, there is a threat to her appointment being done away with. She, therefore,

prays that an appropriate direction may be issued that the respondents may either regularise her service or act in accordance with the provisions of Section 25F of the Industrial Disputes Act, 1947. On the material on record, there can be no doubt that the applicant has been in service since 1983 and even today she is employed, although there have been temporary breaks in between. The first appointment was undoubtedly given to her in the National Chemical Laboratory. Thereafter, there is a controversy between the parties as to whether the appointments were given by the National Chemical Laboratory or the Mechanical Engineering Research & Development Organisation or other agencies whose project work had been undertaken by the National Chemical Laboratories.

2. We have gone through the numerous appointment letters annexed to this application. It is not necessary for us to record a definite finding as to whether in order to attract Section 25F the applicant has worked for atleast 240days under a common employer within the course of a particular year. We are saying so, because we are convinced that under each of the appointment letter the applicant was given a fixed term of appointment. In that situation, the provisions contained in Section 2(00)(bb) would be attracted and even if the service of the applicant is terminated such termination would not amount to retrenchment within the meaning of Industrial Disputes Act.

3. Learned counsel for the respondents have very fairly stated at the Bar that the department has no animosity against the applicant.

It is further stated on behalf of the respondents that, if and when vacancy arises, the applicant will be considered for appointment provided she appears in the necessary written test as well as viva-voce test, if held, and she qualifies in them. Keeping in view of the facts and circumstances of the case, we direct that, if and when a test is held for recruitment to a regular post within a period of three years from today, the respondents shall not impose the bar of age as against the applicant. We also direct the respondents that, if in future any temporary appointment to the post of Lower Division Clerk/Typist/Office Assistant is to be made by them, they shall give a preference to the applicant in the matter of appointment. Of course, it is implicit in our direction that the applicant should be found to be eligible for such an appointment. We have no doubt that the respondents who are model employers will not disqualify the applicant on some pretext or the other. They will honestly and fairly deal with her case.

4. We make it clear that we are not expressing any definite opinion ~~as to~~ ^{on} the question whether the Council of Scientific and Industrial Research is an 'Industry' within the meaning of Industrial Disputes Act. With these directions the application is disposed of finally but with no order as to costs.

U. Savara
(USHA SAVARA) Q. M. P.
Member (A)

S.K.D
(S. K. DHAON)
Vice-Chairman