

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 831/92

Transfer Application No:

DATE OF DECISION 22.1.93

Miss. Fani Udai Bhaskarao Athota Petitioner

Shri S.B. Deshmukh Advocate for the Petitioners

Versus

The Station Director, Respondent
Door Darshan, Nagpur and anr.

Shri Manoharan respondent No.1 Advocate for the Respondent(s)

Shri R.S. Sundaram, respondent No.2.

CORAM:

The Hon'ble Shri M.Y. Priolkar, Member (A)

The Hon'ble Shri V.D. Deshmukh, Member (J)

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 ?


(M.Y. PRIOLKAR)
MEMBER (A)

NS/

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

(4)

Original Application No. 831/92

Miss Fani Udai Bhaskarro Athola

... Applicant.

V/s.

The Station Director,
Door Darshan,
Seminary Hills,
Nagpur.

The Accountant General (Audit)
Maharashtra II
Civil Lines, Nagpur.

... Respondents.

CORAM: Hon'ble Shri M.Y. Priolkar, Member (A)
Hon'ble Shri V.D. Deshmukh, Member (J)

Appearance:

Shri S.B. Deshmukh, counsel
for the applicant.

Shri Manoharan, counsel for
respondent No.1.

Shri R.S. Sundaram, counsel
for respondent No-2.

ORAL JUDGEMENT:

Dated: 22.1.93.

{ Per Shri M.Y. Priolkar, Member (A) }

The applicant in this case was working as Clerk in the office of the Director of Doordarshan, Nagpur. On 31.3.92 she submitted the notice of termination of service under Rule 5(1) of CCS(T.S.) Rules 1965. The request was that her service may be treated as terminated with effect from 30.4.92 i.e. one month after the date of issue of the notice. Meanwhile by letter dated 22.4.92 the applicant was offered the appointment, on nomination by the Staff Selection Commission, to the post of Auditor in the Office of the respondent No.2, and she was asked to report not later than 11.5.92. The grievance of the applicant is that she had reported to the office on 4.5.92 and requested the respondent No.2 to allow her to join duty, but she was not allowed to do so. She

had even written on that day to respondent No.2 stating that she had already submitted the notice under Rule 5(1) of the C.C.S. (Temporary services) Rules 1965 for termination of her service with effect from 30.4.92.

It is clear from letter dated 20.7.1992 of respondent No.2's office that the action of the respondent No.2 of not allowing the applicant to join duty inspite of the offer of appointment was for the reason that she had failed to produce a letter of resignation from her previous employer i.e. respondent No.1. Admittedly, however, no acceptance is required of the notice of termination of service from either side under Rule 5 of the CCS (Temporary service) Rules, 1965. Respondent No.2 was not, therefore, right in insisting on a letter of acceptance of resignation from respondent No.1 before allowing the applicant to join duty in his office. Today, the learned counsel for the respondent No.1 also stated that respondent No.1 will issue the necessary clearance certificate to the applicant as soon as she returns the Identity Card ~~as~~ also CGHS Card issued to her by respondent No.1. In our view, therefore, there should be no difficulty now for the respondent No.2 to allow the applicant to join duty as soon as she produces such clearance certificate from respondent No.1.

The learned counsel for the respondent No.2 argued that the applicant had not been allowed to join duty on the specific communication from respondent No.1 earlier dated 22/23.6.1992 that the applicant should not be allowed to join duty until she cleared all the Government articles issued to her from time to time and until the clearance certificate is issued by respondent No. 1. He also contended that the dossier of the applicant had since been returned to the Staff Selection Commission and her application could be entertained

only after she is recommended again by the Staff Selection Commission for appointment in office of respondent No.2. In our view, the letter from respondent No.1 dated 22/23.6.92 is no longer valid since the counsel for respondent No.1 specifically states that they have nothing against her and they will readily issue the clearance certificate when the two identity cards are returned to them. In any case, taking the totality of the circumstances into account, we think that this is a fit case where the Respondent No.2 should call back the dossier of the applicant and offer her the appointment in an existing vacancy or the next vacancy arising in the office after the clearance certificate is produced. We direct so accordingly. The application is disposed of finally with this direction.

There shall be no order as to costs.



(V.D. DESHMUKH)
MEMBER (J)



(M.Y. PRIOLKAR)
MEMBER (A)

NS/