

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 489 /1998

Date of Decision: JULY 08, 1998.

Malini S. Bapat,

Petitioner/s

Shri Avinash Shivade,

Advocate for the
Petitioner/s

V/s.

Union Of India & Another,

Respondent/s

Shri R. K. Shetty,

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

(1) To be referred to the Reporter or not ? *W*
(2) Whether it needs to be circulated to
other Benches of the Tribunal ? *W*

Reported
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 489 OF 1998.

Dated this Wednesday, the 8th day of July, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Malini S. Bapat,
Residing at -
2, Amod Vihar,
Plot No. 48, Gujrath Colony,
Kothrud, Pune - 411 029.

(By Advocate Shri A. Shivade)

... Applicant

VERSUS

1. Union Of India through
The Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.

... Respondents.

2. The National Defence Academy,
Through the Commandant,
Khadakwasla,
Pune - 411 023.

(By Advocate Shri R. K. Shetty).

: OPEN COURT ORDER :

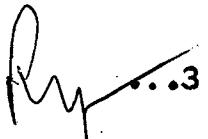
(PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN)

This is an application filed by the applicant challenging the order of termination and for reinstatement and other consequential reliefs. Respondents have filed reply opposing the application. Since the point involved is short, we have heard both the Counsels on merits of the application.

2. The applicant came to be appointed as a adhoc lecturer in the second respondent's institution in 1995. She had artificial break at the end of academic sessions of 1995, 1996 and 1997. She was again reappointed in the academic year of 1997-98. She reported to duty on 26.07.1997 and applied for maternity leave on 01.08.1997. Respondents passed an order dated 04.08.1997 rejecting the applicant's application for maternity leave on the ground that no such leave is admissible to adhoc appointee. Subsequently, by an order dated 08.08.1997 the services of the applicant came to be terminated due to her absence from duty. The applicant has, therefore, approached this Tribunal challenging the order of termination dated 08.08.1997.

3. The respondents have stated in their reply that an adhoc appointee is not entitled to maternity leave or any such leave. It was stated that the applicant suppressed her pregnancy when she was interviewed in April 1997. She has been appointed for giving training to the cadets in the academic year which commenced in the first week of July, 1997 and since she applied for leave within six days of joining duty and remained absent inspite of refusal of leave, her services came to be terminated.

4. After hearing both the sides, we find that it is not a fit case for the Tribunal to interfere with the order of termination. The Learned Counsel

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for the applicant was not able to point out any rule under which the applicant is entitled to maternity benefits as an adhoc appointee. Further, the respondents have stated that if they knew that the applicant was pregnant at the time of interview, they might have even not appointed her, since it would affect the training course during 1997-98. The Learned Counsel for the respondents even produced the office file to show that since the applicant remained absent, they had to appoint one Mr. Uttam Kumar Dalvi, as a stop-gap arrangement in the place of the applicant and, therefore, it was argued on behalf of the respondents that it is not a case where the order of termination could be interferred with.

We are not for a moment, in this case, concerned with whether the action of the respondents was one of propriety or not. It might be that the respondents could have granted some leave without pay but we are only concerned with the legality of the action taken by the respondents. Having regard to the facts and circumstances of the case, and ^{in larger interest of} ~~larger regard to~~ the institution, the cadets training would suffer for want of staff member. We, therefore, feel that the action taken by the respondents cannot be said to be illegal so as to call for interference by the Tribunal.

No doubt, the applicant has another prayer that she should be reinstated. But the


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Learned Counsel for the respondents, on taking instructions, submitted that the applicant cannot be reinstated but she will be re-appointed on identical terms in the present academic year and even submitted that telephonic instructions are already given to the applicant and formal orders will be issued shortly. Therefore, the applicant's prayer for reinstatement cannot be granted, but however, as assured by the Learned Counsel for the respondents, she will be re-appointed and therefore, she could continue on same adhoc term as she was working previously.

5. In the result, the O.A. is rejected at the admission stage, subject however, with the assurance given by the Learned Counsel for the respondents that the applicant will be appointed or re-appointed on adhoc basis in the academic year 1998-99. No costs.

D. S. Bawali
(D. S. BAWALI)
MEMBER (A).

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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