

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 823/92
138/90

: Date of order 18.4.94

Smt. Geeta Saxena & Others: Applicants

V/s

Union of India & Others : Respondents

Mr. M.R.Singhvi : Counsel for the applicant

Mr. Manish Bhandari : Counsel for the respondents

CORAM

Hon'ble Mr. Gopal Krishna, Member (J)

Hon'ble Mr. O.P. Sharma, Member (A)

AS PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

Smt. Geeta Saxena, Smt. Manoj Jain, and Smt. Sobha Chaturvedi have filed this application u/s 19 of the Administrative Tribunals Act, 1985, wherein they have prayed that order dated 5.3.90 (Annexure A-1) by which services of the applicants were terminated may be quashed and respondents may be directed to regularise the applicants as Assistant Teachers on the basis of selection which they have faced successfully and they may be given all consequential benefits. They have also prayed that the respondents may be restrained from conducting interviews in pursuance of the letter dated 2.3.90 Annexure A-2. There is a still further prayer that during the pendency of the application, operation of the order Annexure A-1 may be stayed.

2. The applicants were appointed as Substitute Teachers in the Railway School in Kota Division in pursuance to a notification dated 16.12.92 inviting applications for the post of temporary Assistant Teachers in scale Rs. 330-560. The appointments were made on various dates during 1985 and 1989. Vide Annexure A-1 dated 5.3.90, their services were terminated on the ground that they had been rendered surplus.

3. Annexure A-11 dated 19.7.88 is a panel of 5 Substitute Teachers in which names of the 3 applicants figure at serial nos. 2, 3, & 4. The order Annexure A-1 is based on the premise that

12

5 posts of Assistant Teachers are in excess of the sanctioned strength and are, therefore surrendered. However, the respondents have issued a letter dated 2.3.90 Annexure A-12 calling candidates for selection for appointment of Substitute Teachers in Kota Division. The posts were proposed to be filled up in the scale Rs. 1200-2040 which is the revised scale of the same old scale in which the applicants were appointed. Hence the assertion in Annexure A-1 that substitute Teachers are surplus is not borne out by facts. Also the Chief Personnel Officer is the authority competent to order reduction in the strength of the cadre but he had not yet passed any such order. The applicants have also referred to regularisation of one Smt. Girija Mehra who also figured in the panel dated 19.7.88 Annexure A-11 and have contended that inspite of vacancies being available, they are being discriminated against by not been regularised in the same manner in which Smt. Girija Mehra was regularised.

3. The respondents in their reply have stated that Annexure A-12 dated 2.3.90, the letter calling candidates to attend selection for the posts of Substitute Teachers in Kota Division, was for different posts and not for those which had earlier been rendered surplus as mentioned in order Annexure A-1. In this connection they have relied upon Annexure B-1 which makes a mention about filling up of the posts which require certain specific qualifications such as M.Sc Physics, Chemistry, Biology, B.A. with Drawing/Craft, B.A. with English literature etc. etc. According to them, this selection is not for the post which were earlier rendered surplus. They have also filed Annexure B-2 which is a letter addressed to Kota Division by the Headquarters of the Western Railway, Bombay, according to which, working has been done regarding the excess strength of the posts available in Kota Division.

4. Earlier an interim order was passed by the Tribunal on 12.3.90 directing that the applicants shall not be reverted in case

13

they do not already stand relieved and that no fresh appointments shall be made in pursuance of letter dated 2.3.90 (Annexure A-12)

5. The respondents had moved a Miscellaneous application for vacating the stay order. The applicants had filed reply to the application. On 6.5.91, the Tribunal had modified the interim order passed on 12.3.90, wherein it was clarified that if appointments are being made in pursuance of Annexure A-12 on posts different from those held by the applicants, then the stay order dated 12.3.90 shall not operate against these posts.

6. In the reply to the Miscellaneous Application filed by the respondents, the applicants had drawn attention to an advertisement which had appeared in Rajasthan Patrika of September, 1990 in which the posts of Primary School Teachers were advertised, to be filled up by Railway Recruitment Board, Ajmer. These posts were for various Divisions of the Railways including Kota Division. It was, therefore, the contention of the applicants that the averment that their services had been terminated because the posts were rendered surplus was not tenable.

7. We have heard the learned counsel for the parties and have gone through the records.

8. In Annexure A-2 which is the notification in response to which applicants were appointed as Substitute Teachers it has been promised that substitute teachers will be absorbed against future regular vacancies. Therefore, in view of the promise made by the respondents the applicants have preferential right for consideration for regularisation against the regular vacancies arising in future. This is one aspect of the matter. The other aspect is that there is an advertisement by the Railway Recruitment Board issued in September, 1990 by which vacancies of Primary School teachers in various divisions of the Railways in Rajasthan including Kota Division were proposed to be filled up. The learned counsel for the respondents stated during the arguments that these vacancies

7

were created afterwards in the following financial year commencing from 1.4.90. In the circumstances applicants should be considered for regularisation against the vacancies of primary school teachers in Kota Division to which reference has been made in the advertisement of September, 1990. According to the respondents, the earlier screening of the applicants was for the purposes of their continuance as substitute teachers. However, no rule has been shown to us to suggest that more than one screening is necessary, one for continuance on the temporary posts and another for absorption against regular posts. In the case of Smt. Girija Mehra who figures in the panel at Annexure A-1 along with the three applicants, regularisation was done as per Annexure A-13, which is order dated 15.12.89. Since the applicants also figured in the same panel, there is no reason why they should be subjected to a different treatment. In the circumstances, we direct that the applicants may also be absorbed against vacancies of Primary School Teachers in Kota Division which were the subject matter of the advertisement issued in Rajasthan Patrika of September, 1990, in preference to those who were to be appointed by direct recruitment by the Railway Recruitment Board. The respondents shall take necessary action in pursuance of these directions within a period of four months from the date of receipt of a copy of this order."

9. The O.A. is disposed of accordingly with no order as to costs.

(J.P. SHARMA)

Member (A)

C. Krishna
(GOPAL KRISHNA)

Member (J)