

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

22
TUESDAY THE TWENTY SEVENTH DAY OF OCTOBER
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B.N.JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR.D.SURYA RAO: MEMBER (Jud.)

ORIGINAL APPLICATION NO. 408/87

Between:-

M. Lakshmi

1) The Director, Central Institute of Fisheries, Nautical & Engineering Training Unit, P.B. No. 191, Fishing Harbour, Visakhapatnam - 530 001.Applicants
2) The Director, Central Institute of Fisheries, Nautical & Engineering Training, Dewonig Road, Ernakulam, Cochin - 16.Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to direct the respondents to re-employ the services of the applicant as junior clerk with effect from 23-4-1984 by declaring the termination of the appointment on 9-3-1987 is illegal and unjust and declare the break of 3 days (i.e., 10-3-1987, 11-3-87 and 12-3-1987) after continuous service of nearly 3 years is also illegal and unjust by giving all the consequential benefits of seniority, leave, bonus and medical etc.

(P.T.O.)

OA. 408787
OA. 41087

23

Sim,

Ans. $408/87$, $409/87$ and $410/87$

... heard and disposed of on 27/1/87.

Were heard and disposed of,
Since the subject is common, orders
will be sent in OA. 40

Since the subject is common, were dictated in the Court in OA. 409/87, in order in that application,

~~11~~ Based on the ~~Order~~ Orders in OA 402/87 and 410/87 are
Orders in OA 402/87 and 410/87 are
11.1.1. modifications

Orders in OA 90-1
typed with suitable modifications
req. dates, posts held by applicants, ~~etc.~~ etc.
contents in
Conte

reg. dates,
and put up below for favour of

approval.

$$\left. \begin{array}{l} \textcircled{1} \text{ OA } 40^{\circ} 8' 87 \\ \textcircled{2} \text{ OA } 410' 87 \end{array} \right\} \text{ ffa}$$

HVC $\bigg\{$ HM(T) ^{approx.}

110 \times 107
882 (cm)

(ORDERS OF THE TRIBUNAL)

The applicant herein ~~who was appointed~~ ^{selected} on 10-4-1984 as Junior Clerk in the Central Institute of Fisheries, Nautical & Engineering Training (CIFNET), Visakhapatnam on ad hoc basis. On 23-4-1984, she was given an appointment order stating that she was appointed as a Junior Clerk on ad hoc basis from the fore-noon of 13-4-1984 and that her appointment will be terminated as and when a candidate sponsored ^{MC} by Staff Selection Commission reports for duty or any other permanent group 'D' staff member is promoted and posted in her place. On 9-3-1987, her adhoc appointment was terminated. Again four days later, that is on 13-3-1987, she was appointed as Junior Clerk on ad hoc basis for a period of six months from the fore-noon of 13-3-1987. This order states that the appointment is liable to be terminated without notice and without assigning any reason. The applicant filed this application praying for a direction to the respondents to regularise the services of the applicant as Junior Clerk with effect from 13-4-1984 and to declare

the break of four days from 9-3-1987 to 12-3-1987

as illegal. At the end of the six months' period,

the services of the applicant were terminated.

2. On behalf of the respondents, a counter-affidavit has been filed stating that junior clerks' posts are to be filled by candidates sponsored by the Surplus Cell of the Ministry of Home Affairs or by candidates nominated by the Staff Selection Commission or by promotion from among the eligible group 'D' employees on their qualifying ^{the} departmental examination, in respect of posts identified for the group 'D' employees. The applicant's appointment was only ad hoc subject to the condition that her services are liable to be terminated when the candidates sponsored by the Staff Selection Commission/ Surplus Cell become available. This applicant was appointed through the local employment exchange, which was requisitioned by the department for considering the candidates for ad hoc appointment. The

contd..3

PG
DG

Comptee goes on to state that no notice of termination need

be given as the services of the applicant can be

dispensed with at any time. Her services were

*and was not re-appointed against the report of the Committee on Sympathetic
grants.*

terminated on expiry of the six months and the post

was later filled by a candidate sponsored by the

Central Surplus Cell. Though the post was reser-

ved for a Scheduled Caste Candidate as per the

roster, relaxation was given to the surplus-cell

candidate regarding age, qualifications and community

as per the Government of India Notification No. 14/7/70-

Ests(C) dated 16-10-1970. It was open for the

applicant to appear for the Staff Selection Commi-

ssion Examinations conducted in 1984, 1985 and 1986

and get herself selected and sponsored for the

regular employment. In these circumstances, the

applicant has no right for regular absorption as

Junior Clerk.

3. We have heard the Learned Counsel for the

applicant and Shri N.R. Devaraj, Learned Standing

Counsel for the Respondents. The Learned Counsel for

contd..4

RS

DD

- page four -

the applicant argued that the applicant had worked

for three years and has a right for absorption.

There is also a Circular of the Home Ministry to

the effect that ad hoc employees are to be sponsored

by the Department where they are working for appear-

ing at the Special Qualifying Examination conducted

by the Staff Selection Commission. The Departmental

authorities failed to sponsor ~~him~~ for such an exami-

nation. The fact that the ^{applicant} appeared directly for

the Staff Selection Commission's examination between

1984 and 1986 does not in any way take away her

right to get sponsored for the Special Qualifying

Examination. Shri Devaraj's argument is that the

appointment order itself lays down that the applicant's

services were liable to be terminated when the

candidates sponsored by the S.S.C./Surplus Cell

become available. The applicant appeared for the

S.S.C. examinations directly between 1984 and 1986

and was not selected. There is, therefore, no dis-

crimination in her non-regularisation. SSC-Candidates/

surplus-cell candidates have to get preference over

the ad hoc employees in the matter of regular employ-

ment.

contd..5

86
TDD

4. We have considered these contentions. Admittedly, the appointment of the applicant is to be terminated as and when candidates sponsored by the S.S.C. / Surplus Cell become available. The applicant's services were in fact terminated immediately after the prescribed period of 60 days and in her place, a surplus-cell candidate was appointed as per the Government of India's orders. The applicant did not qualify herself in the examinations conducted by the Staff Selection Commission. We, therefore, find that the applicant has not established any right for regularisation. We see no merit in the application. The application is accordingly dismissed. There will be no order as to costs.

B.N.Jayashimha
(B.N.JAYASHIMHA)
Vice-Chairman.

D.Surya Rao
(D.SURYA RAO)
Member (Judl.)

27th October, 1987.

RSR
RSR