

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.986 of 1992

DATE OF JUDGMENT: 14th June, 1993

BETWEEN:

Kum. M.Sandhya

..

Applicant

AND

Union of India represented by:

1. The Chief Controller of Explosives,  
Nagpur-1.
2. The Controller of Explosives,  
Hyderabad-195.

..

Respondents

APPEARANCE:

COUNSEL FOR THE APPLICANT: Mr. T.P.V.Subbarayudu, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.R.Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE  
SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

This OA was filed praying for setting aside the oral  
order dated 4.11.1992 terminating the services of the applicant,  
and for her reinstatement and for a direction to the respondents  
to pay the applicant the minimum wages from 1.5.1992.

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2. The facts which are not in dispute and which are relevant are as under:-

The office of the 2nd respondent was originally situated at West Marredpally, Secunderabad. Then, Smt. K. Babamma was engaged as a Part-time Sweeper for the said office. The office of the 2nd respondent was shifted to Kendriya Sadan, 1st Floor, Sultan Bazar, Hyderabad in February 1992. Thereafter also Smt. Babamma continued to ~~work as Part-time Sweeper in the office~~ of the 2nd respondent. On 1.5.1992, the applicant, who is the grand daughter of Smt. Babamma, was appointed as Part-time Sweeper in the said office in place of Smt. Babamma. The applicant was informed that for want of sanction of the post and as there was no need for the post of Part-time Sweeper in the office of the 2nd respondent, <sup>her</sup> the applicant's services would be discontinued from 30.9.1992. But, on her representation, she was allowed to continue only upto 4.11.1992. Then the applicant preferred this OA seeking the relief, as ~~already~~ referred to above.

3. When it is submitted for the respondents that the post of Part-time Sweeper was not sanctioned for the office of the 2nd respondent after it was shifted to Sultan Bazar, no material is placed for the applicant to show that there was sanction for that post. When it was pleaded for the applicant that some-one else was engaged in the office of the 2nd respondent after the applicant was removed from service for the purpose of sweeping the office of the 2nd respondent, an affidavit of Mr. K. Rajaiah, Peon in the office

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of the 2nd respondent was filed to show that the said Peon was dusting the office of the 2nd respondent and no-one is engaged for the said purpose. The said affidavit was attested by the Deputy Controller of Mines, a Gazetted Officer. The learned counsel for the applicant submitted that the said affidavit is not valid as it was not attested either by a Notary or Advocate or by a Magistrate.

4. The respondents also produced the Register for payments where acknowledgement is taken for the salaries paid in the office of the 2nd respondent and also the contingent bills and sub-vouchers for the period from November 1992 upto date. They do not disclose payment of any salary either for the purpose of Sweeping or to any part-time Sweeper. As the above are maintained in the regular course of business, the entries therein cannot be doubted. As such, we hold that the records produced for the 2nd respondent ~~does~~ not disclose about engaging any one as Part-time Sweeper for cleaning or sweeping the office of the 2nd respondent after the applicant was discharged. In the above view, there is no need to consider as to whether the affidavit filed by Shri K.Rajaiah, Peon in the office of the 2nd respondent <sup>is not</sup> ~~is valid~~ on the ground that it is not attested by Notary, Advocate or Magistrate as urged for the applicant.

5. ~~In the circumstances,~~ <sup>It</sup> it is not open to the Tribunal or the Court to direct any authority to create a post. Hence, only order that can be passed in view of the facts in this OA is that, as and when the office of the 2nd respondent is

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going to engage any Part-time Sweeper, they cannot do it without first offering the said post to the applicant. Ofcourse, if in such a case, the applicant is not interested in joining service under the 2nd respondent, the latter is free to engage any one in accordance with the rules.

6. We have not adverted to the ~~prayer~~ in regard to the second relief claiming minimum wages from 1.5.1992 as the same is not pressed.

7. The OA is ordered accordingly. No costs.

(Dictated in the open Court).

*P. J. Thiruvengadam*  
(P.T.THIRUVENGADAM)  
Member (Admn.)

*V. Neeladri RAO*  
(V.NEELADRI RAO)  
Vice Chairman

Dated: 14th June, 1993.

Deputy Registrar (J)

To vsn

1. The Chief Controller of Explosives,  
Union of India, Nagpur-1.
2. The Controller of Explosives, Hyderabad-195.
3. One copy to Mr.T.P.V.Subbarayudu, Advocate Block No.16/5  
Krupa Anand Apartments, Anandbagh, Safilguda, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

*U. Thiruvengadam  
14/6/93  
7/6*

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TYPED BY

COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

AND

THE HON'BLE MR. A.B. GORTY : MEMBER (AD)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (J)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated : 14-6-1993

ORDER/JUDGMENT:

M.A. /R.A. C.A. No.

in

O.A.No.

986/92

T.A.No.

(w.p.)

Admitted and Interim directions  
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/ Ordered

No order as to costs.

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