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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

1304/93
O.A. 318/94.

Dt. of Decision : 15.6.94.

Smt. R. Parvathamma

.. Applicant

Vs

1. The Chief Personal Officer,
SC Rly, Sec'bad.
2. The Sr. Divisional Personnel Officer,
SC Rly, Guntakal Division,
Guntakal (AP).
3. Medical Superintendent,
Railway Hospital, SC Rly,
Guntakal (AP).

.. Respondents.

Counsel for the Applicant : Mr. Y. Suryanarayana

Counsel for the Respondents : Mr. V. Bhimanna, SC for Rlys.

CORAM :

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

JUDGMENT

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) I

The applicant herein was appointed as Substitute Pharmacist in Guntakal Division of South Central Railway on 9.1.1987 for a period of 3 months. Her services were extended from time to time by adjusting her against vacancies.

2. On 11.1.1989 her services were terminated due to non-availability of vacancy as she was the junior-most substitute Pharmacist. Challenging this, she filed the O.A.No.99/89 on this Bench for a direction to regularise her services in the post of Pharmacist from the date of her initial appointment. This O.A. was disposed-off on 31.7.1989 setting aside the orders of termination as illegal. However, the relief prayed for regularisation was rejected. A Review Petition on this O.A. was filed bearing R.P.No.45,00 seeking for review of the judgment. In this Review Petition it was brought to the notice of this Tribunal that it was permissible to regularise the para-medical staff by holding a special screening provided the substitute possesses requisite qualification and within the age limit for direct recruitment. This Review Petition was disposed off on 28.2.1990 with the direction that the applicant should make a fresh representation to R-1 herein enumerating her claim. It was further directed that R-1 shall determine any such procedures envisaged under the Rules and if such procedure is prevalent and can be extended to the applicant also, then the respondent shall constitute Screening/Selection Committee and consider the case of the applicant for regularisation. In pursuance of the judgment of this Tribunal dt. 31.7.1989 in O.A.No.99/89,

she was reinstated in service as Substitute Pharmacist on 9.10.1989 and she was paid arrears of salary for the period from 14.1.1989 to 8.10.1989 amounting to Rs.13,226/-.

3. Applicant submitted her representation as directed by the Tribunal in the Review Petition No.43/89 on 20.6.1990. In the mean time Railway Board issued instructions dated 15.3.1989 calling for Service particulars of serving Substitutes in para-medical category to regularise them as one time dispensation to the general rule provided such Substitutes had put in 3 years of service as Substitute and fulfill the other conditions for direct recruitment. The name of the applicant was not recommended as she did not complete 3 years of service on 8.5.1989 when 10 such Substitutes names were recommended. It is alleged by the applicant that one of the Substitutes who joined with her was recommended and regularised on that basis though she had also not put in the requisite years of service as Substitute. Her representation dt. 20.6.1990 was replied on 25.2.1992 stating that there is no procedure of automatic screening of Substitute of para-medical staff for regularisation. The Screening done in terms of the Railway Board's letter dt. 15.3.1989 was only as one time dispensation applicable to serving Substitutes with three years of service at the time of sending proposal on 8.5.1989. The applicant has no claim for being screened and empanelled along with other colleagues who had put in 3 years of service as on 8.5.1989 as she had not fulfilled the three years service condition as on that date.

4. On 29.5.1991 her services were terminated once again by the Senior Medical Superintendent, Guntakal Division of South Central Railway due to alleged non-availability of vacancies. However, this termination of services of Sr.M.S.,

Guntakal was revised and fresh orders were issued stating that her services were discontinued due to non-availability of vacancies by the letter dt. 25.2.1992. However, the applicant was re-engaged on 23.3.1992 and was posted to Dronachalam Health Unit where the applicant joined on 26.3.1992.

5. Once again her services were terminated on 4.10.1993 as a regularly selected candidate through Railway Recruitment Board had reported and no other vacancy existed to continue the applicant. While terminating her services with effect from 5.10.1993, by the letter dt. 4.10.1993, she was paid notice pay, retrenchment compensation and salary for the period from 14.9.1993 to 5.10.1993. However, she complains that she was not paid any retrenchment compensation for the period from 1.1.1991 to 28.5.1991 and for the period from 28.5.1991 to 25.3.1992.

6. As she was terminated from service with effect from 5.10.1993 and her services were not regularised as requested by her, she had filed this O.A. on 12.10.1993 under sec.19 of the Administrative Tribunals Act, 1985 praying for quashing of the proceedings No.G/P.407/VI/Vol.7 dt. 4.10.1993 issued by R-2 whereby her substitute service was terminated treating it as illegal and arbitrary with all consequential benefits such as continuity of service and pay and allowances during that period.

7. The respondents in their counter affidavit state that she was discontinued/terminated from service whenever there was no vacancy to accommodate her as Substitute. She cannot claim regular status as Pharmacist as she was not empanelled for regularisation of services by the Railway Recruitment Board. Her case for regularisation of serving Substitutes through Screening of Substitute para-medical staff is not automatic and Substitute para-medical staff

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have to appear before the Railway Recruitment Board when vacancies are advertised by them and the applications were called for. When one time dispensation was given for regularisation of serving Substitutes in terms of Railway Board's letter dt. 15.3.1989, she was not found eligible at that time as she had not put in three years of service on 8.5.1989 when the proposal for regularisation of para-medical staff was sent to Railway Board. Her services were discontinued whenever there were no vacancies to accommodate her as a substitute following extant instructions. Her services were terminated lastly from 5.10.1993 due to reporting of one duly selected candidate by Railway Recruitment Board, Secunderabad and there being no vacancy to accommodate her. At that time also she was given compensation, notice-pay, etc. as per rules. This termination on 5.10.1993 is as per conditions in her posting order dt. 23.3.1992.

8. In view of their pleadings, the respondents pray for the dismissal of the O.A. as having no merits.

9. We have heard Sri Y.Suryanarayana, learned counsel for the applicant and Sri V.Bhimanna, learned Standing Counsel for Railway.

10. The main contention of the applicant herein is that her case has been singled out for not regularising her in a post as Pharmacist in Guntakal Division due to the vindictive attitude of the respondents as revealed from the circumstances while discontinuing/terminating her services from time to time. She further claims that she should be regularised by constituting Screening/Selection Committee as was done in the year 1989 as per Railway Board's letter.)



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dt.15.3.1989. Such regularisation she contends is in order and is followed in Railways in many cases. She also alleges that one of the Substitute Pharmacist who had joined along with her in the year 1987 was regularised in terms of Railway Board's letter dt. 15.3.1989 eventhough she had not completed 3 years of service as substitute as stipulated by the Railway Board.

11. The first point to be examined is whether she was singled out and victimised by the respondents in discontinuing/terminating her services. She was appointed on 9.1.1987 and was for the first time terminated on 11.1.1989 for want of vacancy as she was the junior most substitute Pharmacist at that time. She has not produced any material beforeus to show that there was vacancy available to continue her at that time on 11.1.1989 and she was not the junior-most substitute Pharmacist at that time. She filed an O.A.No.99/89 which was disposed off on 31.7.1989 setting aside the orders of termination as illegal as one month's notice pay was not given to her as embodied in Rule 301 of Railway Establishment Code Volume-1. Her claim for regularisation was rejected and it was held in that O.A. "that the applicant is entitled for regularisation only in accordance with rules.". In obedience to that above order dt. 31.7.1989 in O.A.No.99/89 she was reinstated in service ^{from} on 9.10.1989 and arrears of salary for the period 14.1.1989 to 8.10.1989 amounting to Rs.13,226/- was paid to her. She also filed a Review Petition bearing R.P.No.43/89 in that O.A. seeking a direction to regularise her services by constituting a Screening/Selection Committee. That Review Petition was disposed off on 28.2.1990 directing her to make a fresh representation and also a further direction to the respondents to examine her case if any such procedure is envisaged under



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the rules and to extend that procedure if it is prevalent. Railway Board vide their letter dt. 15.3.1989 had given an one time exception to regularise the services of the serving Substitutes of para-medical categories by constituting a Screening/Selection Committee provided such Substitutes had put in 3 years of service and fulfill other conditions for direct recruitment. This exemption was given at that time by the Railway Board due to administrative exigencies at that time and large number of Substitutes were in service at that time as can be seen from the letter addressed to the applicant dt. 25.2.1992 (Annexure-I). As she had not fulfilled the condition of 3 years of service on 8.5.1989 her name was not recommended. ~~The above name was not recommended.~~ The above position was also not disputed by the applicant. She was also replied accordingly on ~~20.6.1990~~ 25.1.92. From the above appreciation, it is clear that she was not singled out for termination of the services on 11.1.1989 but was discontinued due to non-availability of vacancies and she being the junior-most Substitute Pharmacist. As provisions as embodied in Rule-301 of Railway Establishment Code, Vol.1 was not adhered to, she was ordered to be reinstated by this Tribunal when she filed O.A.No.99/89, which order was faithfully complied with by the respondents by reinstating her with effect from 9.10.1989 and ~~pxaxix~~ paying her arrears of salary for the period from 14.1.1989 to 8.10.1989 amounting to Rs.13,226/-.. When she filed a Review Petition, in R.P.No.43/89 in O.A.No.99/89, for a direction to constitute a Screening/Selection Committee locally, she was directed to submit a representation to that effect and to dispose off the representation of the applicant in accordance with rule.

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Her representation dt. 20.6.1990 was disposed off by the respondents by their letter dt. 25.2.1992 as directed by the Tribunal. Her case for regularisation of services by constituting a local screening committee was also considered as per the Board's letter of 15.3.1989 but she was found ineligible for consideration as she has not put in 3 years of service as on 8.5.1989 when the names of the Substitutes were sent to the Railway Board. From the above, it is clear that she was not discriminated in screening her as one time exemption when such exemption was given but she had not fulfilled the eligibility condition at that time. The directions given by the Tribunal in O.A.N. 99/89 and the Review Petition 43/89 were fully complied with by the respondents.

12. She states that one of the Substitute who joined with her was screened in 1989 by the local committee and was absorbed as a regular Pharmacist. Though the applicant has not given the name and other details, the respondents state that one Smt. Gowreshwari was regularised as she had fulfilled the condition of 3 years of service as on 8.5.1989, when the proposals were sent to Board for regularising the Substitute para-medical staff. Hence, we see no irregularity in this connection.

13. The applicant was terminated from service on 29.5.1991 for second time by the Sr. Medical Supdt., Guntakal. This order of termination was revised and fresh orders were issued stating that her services were discontinued due to non-availability of vacancies by letter dt. 25.2.1992. No doubt, the initial order of Sr. Medical Supdt., Guntakal is not in accordance with the rules. But, it was revised and fresh orders were issued on 25.2.1992 discontinuing her services due to



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non-availability of vacancy. The first order by the Medical Superintendent may be due to the fact that he is not conversant with the rules, being a medical practitioner. He could have avoided this error by consulting the Establishment Section. However, this mistake was corrected by the letter dt. 25.2.1992. As these were no vacancies and her name was kept in the list for future engagement, we see no irregularity in this order. In fact, she was re-engaged on 23.3.1992 when a vacancy of Pharmacist occurred. She was posted to Health Unit at Dronachalam by letter No.G.P.407/VI/Vol.7 dt. 23.3.1992 with the clear condition that she is engaged against vacancies/casualities and her services are liable to be discontinued at any time without any notice due to the condition stipulated in that order.

14. In the third time the applicant was terminated on 4.10.1993 as a regularly selected Pharmacist reported for duty. She was not paid retrenchment compensation and salary for the period from 14.9.1993 to 5.10.1993. She was not paid retrenchment compensation for the period from 1.1.1991 to 28.5.1991 as this period was less than 6 months and for the period from 28.5.1991 to 25.3.1992 as she was discontinued for want of work. In this retrenchment also, the rules were strictly followed. No material has been produced before us to state that this retrenchment at that time was due to victimisation. As the rules are strictly followed we see no reason for coming to the conclusion that her allegation of victimisation is true. The termination order dt. 4.10.1993 is also in accordance with her initial engagement order dt. 23.3.1992.



15. The recruitment for Group 'C' posts in Railways is done following the Recruitment Rules and through the agency of Railway Recruitment Board. Such Recruitment rules cannot be dispensed with for the sake of an individual. In case of extreme exigencies of service, it may be necessary to modify the rules to meet the critical situation. Here, the Railway Board by the letter dt. 15.3.1989 gave an one time exemption to screen/select the substitute para-medical staff at the Railway level with three years of service due to large number of Substitutes existing at that time. The applicant could not be considered at that time as she had not completed the period of 3 years of service as on the date of consideration. She cannot demand such procedure every now and then. She has to wait for another such opportunity if it arises in future. Till such time, she has to get her regularisation through the Railway Recruitment Board only by applying whenever applications are called for by the Railway Recruitment Board, Sec'bad. She has to compete with others in the open competition for getting empanelled through R.R.B. for regularisation as a Pharmacist.

16. The applicant cannot be considered for Substitute posting as Pharmacist in other divisions of South Central Railway as the Substitute cadre of Pharmacist is controlled division-wise. However, the respondents should keep her name in the waiting list of erstwhile retrenched substitutes for appointing her as Substitute Pharmacist whenever need arises in future.

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17. In the result, this O.A. is dismissed as having no merits. Further, the contention of the applicant that she should be regularised and posted as regular Pharmacist by screening through a local Screening Committee is also rejected. However, this will not stand in the way of the respondents to consider her case for regularisation by a local screening/selection committee whenever such selection/screening procedure is ordered in future by the competent authority provided she is in Substitute service at that time. Her name shall be kept in the Waiting list of erstwhile retrenched Substitute Pharmacist for engaging her as Substitute Pharmacist in her turn whenever vacancies arise in future and there is need to fill the same.

18. The O.A. is ordered accordingly. No costs.

one
(R.Rangarajan)
Member(Admn.)

K. N. Rao
(V.Neeladri Rao)
Vice Chairman

Dated 15th June, 1994.

Deputy Registrar (J)CC

Grh.

To

1. The Chief Personal Officer, S.C.Rly, secunderabad.
2. The Sr.Divisional Personnel Officer,
S.C.Rly, Guntakal Division, Guntakal (A.)
3. The Medical Superintendent, Railway Hospital,
S.C.Rly, Guntakal (A.).
4. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.YaPy, -CAT.Hyd.
7. One sparecopy.

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1/2/94

TEMPED BY

COMPARED BY

CHECKED BY

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.G.RTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKAR REDDY
MEMBER(GUDL)

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 15-6-1994.

ORDER/JUDGMENT:

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

in

O.A.No. 1304/93.

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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20/6/94

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