

(59)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 302/93

Date of Order: 29-1-96

Between:

Mrs. Germina Peter.

.. Applicant

and

The Flag Officer, Commanding-in-chief,
Head Quarters,
Eastern Naval Command, Naval Base,
Visakhapatnam-

Respondents.

For the Applicant :- Mr. A.L.N.Rao, Advocate and v. prasada Rao
Advocate

For the Respondents: Mr. N.R.Devraj,
Sr./Add. CGSC

CORAM:

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

THE HON'BLE MR.RARANGARAJAN : MEMBER(ADMN)

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OA.302/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, VC)

Heard Sri A.L.N. Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicant was appointed as a qualified nurse in the Naval Family Clinic, at Visakhapatnam, when she applied in pursuance of notification, vide Visakha Temporary Memo.109/73 dated 6-8-73 vide Annexure-A.II. After completion of one year, an agreement was entered into with the applicant by the Management of the Clinic and then the applicant was informed by letter dated 30-8-1974 vide Annexure A-III vide MD/2270/9/21 that she will be paid in the basic of Rs. 1000/- and allowances referred to therein and until further orders she will continue to draw a total consolidated honorarium of Rs.300/- p.m. so that her total emoluments will not be reduced. The applicant was informed by the impugned order dated 31.3.93 as to whether she is willing to continue the post of Staff Nurse on payment of Honorarium. Being aggrieved, this OA was filed praying for declaration that the applicant is entitled for regular appointment and confirmation as Staff Nurse with effect from and for setting aside the impugned order dated.

3. It is contended inter-alia for the respondents that it is not maintainable under Section 19 of the Administrative Tribunals Act as the applicant is

not a Civilian in Defence Service nor she is working in a post connected with Defence. It was alleged in the counter in reference to the ~~xxix~~ above preliminary objection that the applicant is paid from Command Amenities Fund ^{and also} which ~~is a non-public fund and is not~~ ~~of the non-public fund~~ just as the surplus from the Canteens. Annexures R-1 and R-2 are filed to support the contention that the name of the applicant is not among the employees appointed in the staff sanctioned for Station Health Organisation.

4. It is true Annexure ~~the post of~~ Lady Health Visitor in the Family Welfare Centre. ^{the rejoinder dt. 22.1.91} Annexure-8 to ~~discloses~~ that the applicant was directed to attend to the ~~Health Visitor~~ when the regular incumbent was on leave. But thereby it cannot be inferred that the applicant is also a Government employee.

5. In order to claim that a ~~particular~~ particular employee is a Government employee, it has to be shown that she is working in an establishment ~~the Government~~. Whenever an establishment is approved by the Government, the number of posts therein will be sanctioned by the Government itself. There is nothing in the allegations in the counter that the applicant was paid from out of the non-public fund. it cannot be stated that the applicant is a Civilian in Defence service. It is not a case where work in the Family Clinic in which the applicant was appointed is with reference to the Defence. It is only for the

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welfare of the Defence employees and their families. Thus it is not even ~~the~~ a case where the applicant is in a post connected with the Defence.

6. As such, the applicant does not come within the purview of Section 14 of the A.T. Act and accordingly this Tribunal is not having jurisdiction to entertain this application. As such, the OA has to be dismissed by giving liberty to the applicant ~~if xxxxxxxx~~ to move appropriate forum for the relief claimed in this OA.

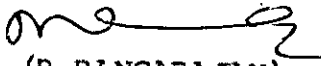
7. ~~Interim order~~ dated 8.4.93, the respondents were directed not to terminate the services of the applicant if she is not ~~sk~~ going to express willingness in terms of the impugned order dated 31.3.94. We feel that as the applicant was ~~4- - -~~ ~~the~~ ~~decades~~, it is just and proper to continue the above interim order if the applicant is going to move appropriate forum by the end of April 1996. It is needless to say that after the matter comes before the appropriate Tribunal/Court, the applicant has to move the same for interim relief and till then the interim order dated 8.4.93 in this OA shall continue.

8. In the result the OA is dismissed on the ground that this Tribunal is not having jurisdiction to entertain this OA. But this order of dismissal does not debar the applicant to move appropriate forum for the relief claimed in this OA. The interim order dated 8.4.93 passed in this

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OA shall continue if the applicant moves appropriate forum by 30.4.1996. The said interim order shall ^{close} ~~sieze~~ if the applicant is not going to move the Tribunal/Court within a reasonable time after taking cognizance of the proceedings to be initiated by the applicant. //


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 29th January, 1996.
Open court dictation.


Deputy Registrar (J) CC

sk/vsn

To

1. The Flag Officer,
Commanding-in-Chief,
Headquarters, Eastern Naval Command,
Naval Base, Visakhapatnam. *as V. prasada Rao, Advocate.*
2. One copy to Mr. A. L. N. Rao, Advocate CAT. Hyd.
3. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
4. One copy to Library CAT. Hyd.

pvm.

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I COURT

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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. R. RANGARAJAN : M(A)

Dated: 29-1-1996

ORDER/JUDGMENT

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

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O.A.No. 302/93.

T.A.No. (w.p.No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No Spare Copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal ब्रेच/DESPATCH 13 FEB 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
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