

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. NO. . 256 of 1998

DATE OF DECISION 18.1.2001

Mrs Jayashree Deb Roy

PETITIONER(S)

Mr B.K. Sharma, Mr S. Sarma,

Mr U.K. Nair and Mr D.K. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.256 of 1998

Date of decision: This the 18th day of January 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Mrs Jayashree Deb Roy,
Wife of Late Subrata Deb Roy (Ex-Service Man),
Typing Agency, Silchar in the Office of the
Executive Engineer, Telecom Civil Division II,
Silchar.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sarma.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
Department of Telecommunications,
New Delhi.
2. The Chairman, Telecom Commission,
New Delhi.
3. The Chief General Manager,
Telecom Assam Circle,
Guwahati.
4. The Executive Engineer,
Telecom Civil Division II,
Silchar.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....
O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The legitimacy of the purported order of termination of the applicant vide order No.16(8)96/TCD-II/SC/741 dated 12.10.1998 is the key issue in this application, apart from the issue of absorption and regularisation of the applicant in the department.

2. The applicant is a widow who happened to be the wife of an Ex-serviceman. She was initially appointed as a typist on temporary

basis in the Office of the Executive Engineer (Civil), Telecom Civil Division at Silchar with effect from 28.1.1991. Her service was extended from time to time with some artificial breaks of one day after 89 days. By a certificate issued by the Executive Engineer on 26.3.1994 the applicant was shown working as such upto 26.3.1994. It may be mentioned herein that the applicant was a sponsored candidate of the local Employment Exchange and her initial appointment was made after undergoing a process of selection including interview and typing test. It has been stated that the respondent authority took up the case of the applicant for regularisation and her service particulars alongwith others were sent to the authorities concerned from time to time and for this purpose the applicant referred to the communications dated 27.6.1997, 5.11.1997 and 28.11.1997 forwarding the name of the applicant to the concerned authority for such consideration. The documents referred to by the applicant goes to show that the applicant was shown as working on casual basis upto March 1995 and from March 1995 till the impugned order was passed her service was shown as contractual. The documents also indicated that the case of the applicant was also sent for her regularisation to the concerned authority. While things rested as such, the impugned order for termination and/or discontinuation was passed vide order dated 12.10.1998 for alleged irregular attendance in office. The aforementioned communication indicated that the applicant's attendance was not punctual. The relevant part of the impugned order is reproduced below:

"It is experienced since past by the undersigned that-

- i) Your attendance is not punctual. Almost all the days you are attending office in late hours and also leaving office early.
- ii) You are compliting the job assigned to you dayu to day.

As a result of your such action by way of not purforming the tasks in time the important works re suffering badly.

As such your contract is discontinued with effect from 13.10.98."

Questioning the legitimacy of the action of the respondents, the applicant moved this application under Section 19 of the Administratiave Tribunals Act, 1985.

3. The respondents contested the claim of the applicant and submitted their written statement. The respondents in their written statement stated that the applicant was merely engaged temporarily as Typist for typing works in the Office of the Executive Engineer vide order dated 30.1.1991. She was not engaged on regular basis and she was engaged on daily rated basis. The respondents also stated that the applicant is outside the purview of the Scheme, and therefore, question of regularising her service in the department did not arise. According to the respondents their duty is to regularise the service of the casual labourers, but in the instant case the applicant was engaged on contractual service, and therefore, the respondents are not duty bound to regularise her service. The respondents also, justifying the order of termination, stated that the applicant was not devoted to the work and she was not punctual in her attendance. She was earlier advised to concentrate on the works, but the applicant did not improve at all, and therefore, her contract was discontinued with effect from 13.10.1998.

4. Admittedly, the order that was passed for her termination/discontinuation was on the ground of failure of the applicant to maintain punctuality and irregularity in attendance. The order also indicated that the applicant failed to discharge her duties and responsibilities assigned to her. The aforesaid causes were the foundation of her termination and/or discontinuation from service. Assuming that the applicant was treated as a contractual employee, the respondents being a public authority could not have snapped her service on the aforementioned grounds which are stigmatic in nature without providing her any opportunity to have her say. The impugned order, admittedly, is of punitive nature since it visited with evil consequence. The applicant was entitled at least for a minimal notice and since that was not done it is difficult on our part to uphold the order of termination. The order accordingly is set aside. We are also of the view that the applicant deserves fair treatment from the respondents. Admittedly, the applicant

has.....

has been working in the department since 1991. The department has already initiated the process of regularisation by introducing the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. The applicant was also entitled for a fair consideration of her case for regularisation against a sanctioned post commensurate with her qualification.

5. Considering all aspects of the matter we are of the view that this is a fit case in which the respondents are required to take into consideration the case of the applicant for regularisation as per their established practice in a post commensurate with her qualification and till completion of the process of regularisation the applicant shall continue in the post which she is presently holding.

6. We accordingly set aside the impugned order dated 12.10.1998 and direct the respondents to take steps for regularisation of the applicant as indicated earlier from the due date. The respondents are also directed to complete the exercise as early as possible, preferably within three months from the date of receipt of this order.

7. The application is accordingly allowed. There shall, however, be no order as to costs.

K. K. Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury
(D. N. CHOWDHURY)
VICE-CHAIRMAN