

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH

OA No. 763/03

Jabalpur, this the 26th day of October, 2004.

CORAM

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Smt. Sukhwanti Bai
Wife of late Ramu Prasad Kurmi
Ex Labour, G.C.F. Factory
R/o 205/6 New Line
GCF Estate, Jabalpur.

Applicant

(By advocate None)

Versus

1. Union of India through
Secretary, Ministry of
Defence, New Delhi.

2. Chairman
Ordnance Factory Board
10-A, S.K.Bose Road
Kolkata.

3. General Manager
GCF Factory
Jabalpur.

Respondents

(By advocate Shri P. Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) To quash the impugned order dated 26.4.02 passed by respondent No.2 as contained in A-1 terminating the services of the applicant and to direct the respondents to reinstate him in service.
- (ii) To quash the order dated 1.9.2003 (Annexure A2) by which the applicant has been informed that the appeal filed by him was rejected.

2. The brief facts of the case are that the applicant was given compassionate appointment on the post of labour vide order dated 19.11.99 in place of her husband who expired while in service. After the death of her husband, the applicant was suffering from illness and she was compelled to undergo treatment. Because of the above reason, the



applicant could not attend her duties and she intimated ~~her office~~ regularly through registered posts. Being on medical leave right from the month of appointment, the management could not assess the performance of the applicant and subsequently her services were terminated w.e.f.27.4.02. The applicant preferred an appeal to respondent No.2 stating that the applicant's continuous absence was absolutely on medical grounds. However, the said appeal was rejected by the appellate authority vide order dated 1.9.03. The applicant's services were terminated during the probation period and she was not given an opportunity of hearing before passing the impugned order. The order was issued against the principles of natural justice, hence it deserves to be quashed.

3. None is present for the applicant. Hence the provision of Rule 15 of CAT(Procedure) Rules, 1987 is invoked.
Heard the learned counsel for the respondents.

4. It is argued on behalf of the respondents that the applicant was appointed on 13.11.99 as labourer unskilled on compassionate ground after death of her husband. She was kept on probation for a period of two years from the date of appointment, which was liable to be extended for further period in case her performance during the probation period was not found satisfactory. The appointment was also liable to be terminated at any time during probation without assigning any reason. Copy of appointment order dated 2.11.99 is filed as Annexure R-1. At the time of her appointment, she had been medically fit for service. However, after her appointment, she was absenting from duty on numerous



occasions. During the initial two years of probation, she remained absent for 317 days when her performance was not found satisfactory and the probation period was extended by another six months. She was duly informed of her shortcomings and to improve failing which the appointing authority would be free either to extend the probation for further period or to terminate the services. Copy of the order dated 12.11.2001 to this effect is filed as Annexure R2. Despite the above efforts, the applicant did not improve her performance. When the applicant again remained absent from duty from 13.11.2001, she was issued a warning memo on 21.2.2002 for which she replied that she was mentally sick and she would join duty on getting well. Therefore, the appointing authority came to the conclusion that the applicant is unfit for retention in service and accordingly her services were terminated. The representation submitted by the applicant was duly considered by respondent No.2 sympathetically but regretted to accede to her request. Hence the action of the respondents is perfectly legal and justified. There is no irregularity or illegality in passing the impugned order.

5. After hearing the learned counsel for the respondents and careful perusal of the records, we find that the applicant was appointed on 13.11.99 on compassionate grounds in place of her husband who died during service. The applicant was kept on probation for 2 years which was liable to be extended. The applicant remained absent for 317 days during the probation period. She was informed about her shortcomings and to improve her performance but she did not improve her performance and therefore, the probation period was extended by another six months and during this



extended period of probation, there was no improvement on the part of the applicant. Ultimately the appointing authority came to the conclusion that she is unfit for retention in service. Hence her services were terminated vide impugned order dated 26.4.02 (Annexure A1). She submitted a representation after one year on 14.3.2003 which was also dismissed by the respondents vide order dated 1.9.2003. The applicant was given appointment on compassionate grounds following the death of her husband and she was duly informed from time to time to improve her performance but she did not improve her performance. Hence the respondents have passed the impugned order finding that the applicant was not fit to be retained in service.

6. Considering all the facts and circumstances of the case, we find that the OA has no merit. Accordingly the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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पृष्ठांकन सं. ओ/व्या.....अबलपुर, दि.....
प्रतिलिपि अन्वेषिता -

- (1) राधिका, बल्ल चाहल, दौलतपुर, राजस्थान, जलालपुर
- (2) आवेदक दीपीमली/डू.के काउंसल R.L. Gupta
- (3) प्रधार्दी दीपीमली, दू.के काउंसल P. Shinde
- (4) बंदरगाह, दौलतपुर, राजस्थान राजस्थान
सूचना द्वारा आवश्यक काव्यकारी हैं

17/2 28-10-04
उपर रजिस्ट्रेशन

Issued
On 28/10/04
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