

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.No.652/2002

Hon'ble Sh. Sarweshwar Jha, Member (A)
Hon'ble Sh. G.Shanthappa, Member (J)

Jabalpur, this the 7th day of November, 2003

Smt. Priti Bala Sharma ... Applicant

(By Advocate: Sh. P.N.Dubey)

Vs.

Union of India & Others. .. Respondents

(By Advocate: Sh. M.K.Verma)

O R D E R (Oral)

By Sh. Sarweshwar Jha, Member (A):

Heard.

2. It is observed that the applicant was on long medical leave and accordingly she was directed to present herself before a Medical Board. The Medical Board examined her and declared her medically unfit for duty. She was directed to report for duty after the period of medical leave was over. However, her services had been terminated in August, 2002 itself. It appears that the respondents did not care to wait for the period of medical leave, as per the medical certificate given by the doctors, being over, and they terminated her services under Para 5 of the letter of appointment in which there is a provision that her services can be terminated with one month's notice or with one month's pay in lieu of notice.
3. It appears that the respondents have not afforded her an opportunity to defend her case.

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4. None appeared for the respondents. In this context the orders of this Tribunal dated 21.3.2003 deserve to be referred to in which it had been observed by the Tribunal that the respondents had forfeited their right to file reply.

5. It is further observed that the applicant had approached this Tribunal earlier also vide OA No.442/2001, decided on 14.3.2002 and also further vide OA No.435/2002, decided on 16.7.2002. While in the first OA, the respondents had been directed to consider and dispose of the representation of the applicant by issuing a detailed and speaking order within a specified period, in the second OA, it had been left to the discretion of the respondents to consider her case in the best interest of the applicant as well as the respondents' organisation. It had also been mentioned in the order of the Tribunal in the second case that the rejection of the OA by the Tribunal 'may not preclude the respondent No.1 to reconsider the case of the applicant in view of the facts as brought out earlier in this case'. Being aggrieved by the fact that the services of the applicant have been finally terminated by the respondents, she has filed the instant OA.

6. At this stage, the learned counsel for the respondents entered appearance and stated that the certificate issued by the Medical Board had been obtained by the applicant only after her services had been terminated.

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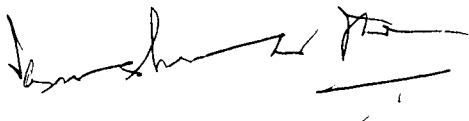


7. The learned counsel for the respondents has also placed before us an affidavit to support the contentions of the respondents made in the oral arguments.

8. We have heard the learned counsel for the applicant and also the respondents and perused the material on record, and keeping in view the facts and circumstances of the case, we are of the considered opinion that the respondents have not afforded an opportunity to the applicant to defend her position before her services were terminated.

9. It has also observed that the medical certificate which had been submitted by the applicant, and in which the medical authority had declared the applicant unfit for duty, has not been taken into account by the respondents while taking a view in the matter. It is also further observed that the respondents have not kept in view the fact that she had a long history of gynaecological problem and that she was already on medical leave when her services were terminated. Under these circumstances, we are constrained to observe that the action of the respondents in terminating her services is not proper and is also considerably disproportionate to the charge which had been brought against her. Thus, keeping in view the fact that the principles of natural justice have not been observed by the respondents while

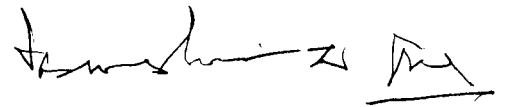
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terminating the services of the applicant and also that she was on medical leave when her services were terminated, we quash their order dated 14.8.2002 (impugned order) which is placed at Annexure A1 and direct that she may be reinstated in service forthwith by the respondents. The applicant, however, shall not be eligible for payment of backwages for the period she was not on the job.

10. With this, this OA stands disposed of in terms of the directions given above. No costs.


(G. SHANTHAPPA)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

/rao/


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पूरीकन से ओ/का..... दि.....

(1)

(2) PN Dubey Adv.

(3) MK Verma, Adv.

(4)
सूचना एवं संपर्क विभाग

19.11.03