

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, INDORE

O.A.NO. 639/1998

Tuesday, this the 18th day of February, 03

Hon'ble Shri Justice N.N. Singh, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Shrimati Ashla Gurung widow of Late Constable Bir Bahadur Gurung
r/o Quarter No.18, CSWT, Border Security Force, Indore

(By Advocate: Shri S.K. Omkar)

..Applicant

Versus


1. Union of India through
the Secretary, Home Affairs, Govt. of India
New Delhi Office of Central Secretariat
New Delhi
2. Assistant Director
Border Security Force
Block No.10, Lodhi Road
Kendriya Karyalaya Parisar
New Delhi-3
3. Commandant, Border Security Force
CSWT Border Security Force, Indore

(By Advocate: Shri B. Dasilva)

..Respondents

ORDER (ORAL)

Shri Govindan S. Tampi:



Heard Sh/Shri S.K. Omkar and Brain da Silva learned counsel for the applicant and the respondents respectively.

2. This OA has been filed by Smt. Asha Gurag against order dated 23/12/1997 terminating of her services, which, according to her, is illegal. The applicant is the widow of a deceased in Border Security force based at Indore who died in harness on 25/10/1988. The applicant was thereafter appointed on compassionate basis as an Aya in the CSWT (BSF Hospital) on 25/10/1988 for a period of three months, which was repeatedly renewed up to 23/12/1997, with a brake of one day each after every three months. However by the impugned order dated 23/12/1997 her services were suddenly terminated by the respondents holding that her dealings with the other staff in the hospital did not defit her status and her work in the hospital was not satisfactory.

3. According to the learned counsel for the applicant the impugned action of the respondents was illegal and arbitrary as after nearly 8 years of service her services had been suddenly terminated, on the ground of being unsatisfactory, without any notice whatsoever. On the other hand it is argued by the learned counsel for the respondents that the respondents had taken the decision in view of their observation of the conduct of the applicant.

4. We have carefully considered the matter. We find that the applicant who has been engaged in service on 25/10/1988, following the death in harness of her husband, had been continuing with the respondents for nearly 9 years, in spells of three months each, though broken by a day each at the end of every quarter. No intimation had been given to her as to the unsatisfactory nature of her work nor had she been put on any notice on account of her unsatisfactory performance. The applicant has therefore been denied the chance and opportunity for effective representation of her case. The above order which is punitive and stigmatic in nature, should have been preceded by a show cause notice, the absence of which vitiates the proceedings. The order therefore cannot be sustained.

5. In above view of the matter the OA succeeds and is accordingly allowed. The impugned order dated 23/12/1997 is quashed and set aside and the ^{respondents} ~~applicants~~ are directed to reinstate the applicant in her job, this may be done within three months from the date of receipt of copy of this order. This would not preclude the respondents from taking any disciplinary action against the applicant, strictly in accordance ^{with} ~~the~~ law, if they so desire and are so advised. No costs.

(Govindan S. Tampi)
Member (A)

(N.N. Singh)
Vice Chairman

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

परिलिपि आये जाता:-

- (1) श्री. कल्याण शर्मा, जलपुर एलेक्जिक्युटिव, जबलपुर
- (2) श्री. कल्याण शर्मा, जलपुर एलेक्जिक्युटिव, जबलपुर
- (3) श्री. कल्याण शर्मा, जलपुर एलेक्जिक्युटिव, जबलपुर
- (4) श्री. कल्याण शर्मा, जलपुर एलेक्जिक्युटिव, जबलपुर

S. K. Chakraborty DHD
B. C. S. R. O. - 104

सूचना एवं आवश्यक कार्यवाही हेतु

उप निदेश
4/3/03

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